CHICAGO BAR ASSOCIATION.

ON Thursday evening, June 10th, 1880, Hon. Isaac N. Arnold, for many years a leading lawyer of the Chicago Bar, delivered, in Fairbank Hall, the first of a series of lectures to be delivered before the Chicago Bar Association, on questions of interest to the profession.

Gen. I. N. Stiles, the president of the association, presided. The Lecture Committee, consisting of Robert Hervey, Esq., Henry I. Sheldon, Esq., and Hon. Elliott Anthony, occupied seats upon the platform.

Quite a number of the older members of the Bar, who remembered Mr. Arnold in the palmy days of the long ago, were present. It was noticeable that at this, the first meeting of the Association at which women were admitted, they outnumbered the men in attendance.

Gen. Stiles, in introducing Mr. Arnold, paid a deserved tribute to Samuel W. Fuller, one of the ablest, fairest, and best lawyers that ever practised at this Bar. Mr. Stiles said:

The lecture this evening is one of a series to be delivered before the Bar Association, upon topics of special interest to lawyers. I am sure this evening's lecture will be of interest also to others. The lecturer is of the old school of Chicago lawyers, and has achieved distinction, not only at the Bar, but in the halls of legislation, and of late in the walks of literature.

Some years since, a distinguished Chicago lawyer, now dead, after an eight days' struggle in a closely-contested and important cause, on hearing the verdict of the jury read—which was against him—rose from his seat, and in his grand, chivalrous way, said to his opponents: "I congratulate you on your victory—it was fairly won." Had the victory been for him, it would have been fairly won also; he won his in no other way.

That man was Samuel W. Fuller [applause], I should have wondered if those of you who knew Sam. Fuller had not cheered at the mention of his name, for a finer gentleman, a grander soul, a nobler man, never arose to address a judge or jury; and to the class of lawyers to which Sam. Fuller belonged, belongs, also, Isaac N. Arnold. [Applause.] He represented Chicago in Congress in a manner which was an honor to Chicago. In faultless English, and with the purest style, he has, in his life of Benedict Arnold, lately given us the brighter and better side of one of the great soldiers of our Revolutionary War—but hear him. [Mr. Arnold then stepped forward, and spoke as follows:]

RECOLLECTIONS

OF THE

EARLY CHICAGO AND ILLINOIS BAR.

By Hon. ISAAC N. ARNOLD.

Mr. President and Gentlemen:

The Bar of Chicago could scarcely ask of me a service which I should not at least try to perform. When, therefore, I received your official invitation to read before this Association a paper upon "The Bar of Early Chicago and the State," I could not decline however incompetent. Recalling the idea of Lord Bacon that every one owes a debt to his profession, which he should try to discharge, and remembering many of my old comrades, dearly loved brothers, whose memories I cherish, and upon whose graves I would gladly cast a flower, I have accepted your invitation.

It is curious to observe the fascination and romantic interest which time and tradition throw over the past. We all realize, that as the names of those who have departed, fade into the twilight of antiquity, they become more and more the objects of sentiment and poetic admiration.

In every State there exists, among the members of the Bar, traditions of great lawyers and advocates. Sit down to a Bar dinner in New York, and your hosts will go back to the days of the Revolution, and tell you of Hamilton and Burr; of Henry and Emmet, Ogden and Wells, of Kent and Elisha Williams, and later of Spencer and Van Buren, and so on down to O'Conner and Everts.

In Boston, you will hear of Harrison Grey Otis, of Dexter and Webster, Choate and Curtiss. In Providence, of Whipple and Green; in Philadelphia, of Hopkinson, John Sargent, and Binney; and, in Baltimore, of Pinckney, Harper, and Reverdy Johnson. In Richmond, of Marshall and William Wirt; in Kentucky, of Clay, Crittenden, Prentiss, and Tom Marshall. And we, too, in Chicago and Illinois, have had our great lawyers and great advocates, not inferior it seems to me to those of our sister States. We ought to honor and cherish their memories. The disposition so conspicuous in New England, and especially in Boston, to honor men in every department of intellectual labor is worthy of imitation. It has aided largely in giving to that city and section their high character and excellence. It has both stimulated and rewarded effort.

In a visit to London, made not long since, the morning after a late arrival, I started from the Charing-Cross Hotel to visit Westminster Hall and Westminster Abbey. Passing along the Thames embankment, fragrant with a profusion of June flowers, I entered the venerable old Abbey, and lingering there, I appreciated how highly England honored her great men; I paused a moment by the monument to Lord Mansfield, near which is that of Sir William Follett, the great advocate; and also that to Grattan, the fiery and impassioned Irish orator. Crossing to Westminster Hall, the silence was broken by the familiar voice of a Chicago friend* repeating these words of Macauley: "This is the great hall of William Rufus; the hall which has resounded with acclamations at the inauguration of thirty kings; the hall which has witnessed the just sentence of Bacon and the just absolution of Somers; the hall where the eloquence of Strafford had for a moment awed and melted a victorious party, inflamed with just resentment; the hall where Charles confronted the high court of justice with the placid courage which has half redeemed his fame." "And in modern times," continued my friend, "these walls have echoed to the eloquence of Burke and Fox and Sheridan, where, with a power equalling that of Cicero himself, they hurled their denunciations against Warren Hastings." "And here, too," he

* Rev. Edward Porter.

exclaimed "Henry Brougham defended Queen Caroline, and by his superhuman efforts triumphed over all the power of the crown." "This," said he, "this is the grandest forum of the world." "And yet," I replied, "I have seen justice administered on the prairies of Illinois, without pomp or high ceremonial, everything simple to rudeness, yet justice has been administered before judges as pure, aided by lawyers as eloquent, if not as learned, as any who ever plead or gave judgment in Westminster Hall!"

What a contrast to a Western lawyer, between that old historic forum, and the log-cabin in which the courts were often held in the early days of the Northwest! The comparison is like that of religious worship in an old gothic cathedral, with its painted windows, its "dim religious light," with all the imposing ceremonial, the formal ritualism, and the grand organ and choir music, contrasted with the simple, sincere, reverent, pious praise and prayer of the humble chapel and camp-meeting in the groves on the frontier. I insisted that justice in its purity was as faithfully administered by judges as honest and as immaculate, aided by advocates as eloquent, in our rude Western court-rooms as in that grand old hall of Westminster, and I will try and make good my words.

Passing then from one extreme to the other, let us come back to the rude, rough log-court-houses of early Illinois; let us inquire what manner of men sat upon the Bench, and what men composed the Bar, which aided courts and judges in administering justice.

THE EARLY COURTS OF ILLINOIS.

The Judge usually sat upon a raised platform, with a pine or white-wood board on which to write his notes. A small table on one side for the clerk, and a larger one, sometimes covered with green baize, around which were grouped the lawyers, too often I must admit, with their feet on the top of it. From one to another of these rude court-rooms the gentlemen of the Bar passed, following the judge in his circuit from county to county, traveling, generally on horseback, with saddle-bags for a clean shirt or two, and perhaps one or two elementary law-books. Sometimes two lawyers would travel together in a buggy; and

young lawyers, who were still in the condition which a great English judge declared was the one indispensible qualification for success—poverty, on foot. Such an one, without a dollar in his pocket, sometimes walked to court; but a horse was not an unusual fee in the early days when horse-thieves, as clients, were but too common, and it would not be long, if a young man had ability, before he would be well mounted. There was in those days great freedom in social intercourse; manners were at times rude, but genial, kind, and friendly. Each was ready to assist his fellow, and as none were rich, there was little envy or jealousy. The relations between the Bench and Bar were free and easy, and flashes of wit and humor and personal repartee were constantly passing from one to the other. The court-rooms in those days were always crowded. To go to court and listen to the witnesses and lawyers was among the chief amusements of the frontier settlements. At court were rehearsed and enacted the drama, the tragedy, and comedy of real life. The court-room answered for the theater, concert-hall, and opera of the older settlements. The judges and lawyers were the stars; and wit and humor, pathos and eloquence, always had apprecitative audiences. The leading advocates had their partizans, personal and political, and the merits of each were canvassed in every cabin, school-house, and at every horse-race, bee, and raising. The lawyers were stimulated to the utmost exertion of their powers, and having few law-books, were compelled to solve every question by the application of principle. This was the best possible training and discipline, and produced great men: a body of men of far higher ability than those who look for and find an adjudicated case to settle every point which may arise. The mere case-lawyer was a pigmy in the hands of one of those intellectual giants, whose mind had been trained for years in the application of principle, and in reasoning from analogy. I need but name some of the prominent men at the Illinois Bar, thirty and forty years ago, to show that the mode of trial and argument then prevailing, produced very able men. A new and sparsely-settled State, which had at its Bar such men as Lincoln, Douglas, Trumbull, Butterfield, Browning, Baker, Archy Williams,

Bissell, Calhoun, Linder, Stephan T. Logan, David Davis, Washburne, McDougall, and very many others, as lawyers, nearly if not quite as distinguished, certainly could justly claim equality with any part of the world in intellectual power.

I know not whether it was the elixir of early life, but those days, with their adventures and romance, our rides across prairies where every footstep of our horses crushed out the perfume of prairie flowers,—

"Flowers whose glories and whose multitude rivalled the constellations."

Those were the days when we saw

"The light which never was on sea or land."

I know not whether it was a youthful fancy, but it did really appear that

"The great heavens
Seemed to stoop down upon the scene in love,
A nearer vault, and a tenderer blue,
Than that which bends aloft to-day."

And now, when after a checkered life of forty years,

"O'er the verdant waste I guide my steed,"

I think of those, the dead of other days, and of those I will speak,

JUSTIN BUTTERFIELD

was one of the ablest, if not the very ablest lawyer we have ever had at the Chicago Bar. He was strong, logical, full of vigor and resources. In his style of argument and in his personal appearance he was not unlike Daniel Webster, of whom he was a great admirer, and who was his model. He wielded the weapons of sarcasm and irony with crushing power, and was especially effective in invective. Great as he was before the Supreme Court, and everywhere on questions of law, he lacked the tact and skill to be equally successful before a jury. Coming to Chicago in middle life, he was an oak too sturdy, too old, and of a fiber too tough to be transplanted, and he did not readily adapt himself to the new environment into which he came, and he never was at his best before a Western jury. Indeed, in an ordinary case before a jury, as compared with himself before the Supreme Court, he was weak. At one term of the Circuit Court in this county, being opposed to him in several trials, although, as I need hardly

say, greatly his inferior, I had the good fortune to beat him several times in succession. We came at length to the trial of a case in which we both felt a special interest, and each of us made unusual efforts. At the close of an argument of great ability, he turned round to me and exclaimed: "Arnold, unless all hell has broke loose and been packed on that jury, I'll beat you this time, anyhow." Nevertheless, I got a verdict, as I thought I ought to have.

TRIAL OF REV. W. F. WALKER BEFORE BISHOP CHASE.

Thinking of Mr. Butterfield, I am reminded of an incident which occurred on the trial of the Rev. W. F. Walker before an ecclesiastical court, over which presided the venerable Bishop Chase. Mr. Walker was an Episcopal clergyman of some prominence, at one time Rector of St. James, and afterward of Trinity parish, in this city. Charges were made against him, and among others, that of breaking the Sabbath, by hunting on the Lord's day. I believe the proof showed, that in keeping his appointments in the country, to which he drove in his buggy, he was in the habit of placing his double-barrelled gun on the bottom of his wagon, and he generally returned with a stock of game, which supplied his table. There were other and more serious charges. He was ably defended by Justin Butterfield, John J. Brown, and James A. McDougall, and I had the honor of conducting the prosecution. Bishop Chase was the pioneer bishop of the Protestant Episcopal Church in Illinois. He had purchased of the United States some 3000 acres of land, near Peoria, and founded "Jubilee College," in a beautiful grove upon these lands. His own home he called "Robin's Nest." He was a man of indomitable will, of great energy and zeal, and of imposing presence and dignity of manner. He was the uncle of the late Chief-Justice Chase, and was a man of the same magnificent physique. The trial was contested with great vigor, and there were earnest controversies between the counsel, and sometimes between the counsel for the defense and the Bishop. The Bishop was an old gentleman, quite decided and independent, and disposed to maintain both his personal and official dignity. Indeed, it is not putting it too

strong to say he was somewhat arbitrary. Mr. Butterfield stood at the head of the Bar, not only in Chicago, but in the State, and was not in the habit of being overruled with equanimity. He had not too much reverence, certainly not toward bishops, and as both he and Bishop Chase were very decided and determined, collisions were inevitable. The court was always opened with prayer, and a portion of the morning service. One day, when the Bishop was about to open court, Mr. Butterfield, who, with his associates and client, sat at a table directly in front, continued a very audible conversation, after the president of the court had entered and was standing before the altar. The Bishop paused a moment for silence, but Mr. Butterfield, indifferent and careless, or what I thought more probable, intending to rebuke what he regarded as unjust and arbitrary rulings, continued loudly and rudely the conversation. But the old Bishop was quite equal to the occasion. He was a man of majestic presence; turning and advancing directly in front of Mr. Butterfield, he fixed his eye upon him, and then in a voice, the deep, low, and reverential tones of which created instant silence, he said: "*The lord is in his Holy Temple, let all the earth keep silence before Him.*"

GOV. WM. H. BISSELL.

Among the eloquent advocates of Central Illinois, few, if any, were superior to Gov. William H. Bissell. He was a native of Otsego County, in the state of New York; born in the same town with myself, our relations were always very friendly. Judge Gillespie, of Edwardsville, in a late address before the Chicago Historical Society, has drawn a parallel between Edward D. Baker and Bissell, and expressed the opinion, and he is a very competent judge, that they were "the best extemporaneous speakers in the United States." He said "Baker's speeches appear best in the reading, Bissell's in the delivery; Baker seldom gained his point, Bissell never lost his; Baker had the more poetic imagination, Bissell the best appreciation of facts; Baker could entrance an audience, Bissell could carry them with him; Baker spoke for fame, Bissell for immediate effect." Judge Gillespie gave a graphic description of the closing argument of Bissell in the trial of

one Raney, for murder, at Carlyle, in Chester County, as of surpassing eloquence. He says, when listening to him on that occasion: "I realized to its fullest extent the power of a master-orator over the feelings of mankind. The picture drawn by Bissell on that occasion has stamped itself indellibly on my mind. I see it in the visions of the night, I hear his burning eloquence to this day ringing in my ears."

Few speeches have ever been made in Congress, which produced a greater sensation than his made on the 21st July, 1850, upon the slavery question, and in defense of the Illinois soldiers in the Mexican War. After a brilliant career at the Bar of Illinois and in the State Legislature, he went a volunteer to the Mexican War, and upon the field of Buena Vista, it was his fortune, at the most critical moment of the battle, to command the soldiers of our State. No experienced officer could have displayed more coolness, presence of mind and heroism, than the volunteer colonel. His conduct, and that of his command, were the theme of admiration throughout the Union. He saved the day. Returning to Illinois, a grateful people elected him to Congress. At the session of 1850, the well-earned fame of the Illinois troops was assailed by a distinguished member of Congress from Virginia (Mr. Sedden). After vindicating the free States and their devotion to the Union, Bissell spoke of the conduct of the Illinois soldiers at Buena Vista. He said:

"I must now refer to a subject I would gladly have avoided. I allude to the claim put forth for a Southern regiment, by the gentlemen from Virginia, of having met and repulsed the enemy on the field of Buena Vista, at that most critical moment, when the Second Indiana Regiment, through an unfortunate order of their colonel, gave way. Justice to the living as well as to those who fell on that occasion, demands of me, a prompt correction of this most erroneous statement. I affirm distinctly, that at the time the Indiana regiment gave way, the Mississippi regiment, for which this claim is set up, was not within a mile and a half of the scene of action, nor had it as yet fired a gun or drawn a trigger. I affirm further, that the troops which at that time met and resisted the enemy, and thus to use the gentleman's own lan-

guage, 'snatched victory from the jaws of defeat,' were the Second Kentucky, the Second Illinois, and a portion of the First Illinois Regiments. It gives me no pleasure, sir, to be compelled to allude to this subject, nor can I perceive the necessity or propriety of its introduction into this debate. It having been introduced, however, I could not sit in silence and witness the infliction of such cruel injustice upon men, living or dead, whose well-earned fame, I were a monster not to protect. The brave and true hearts of too many of them, alas, have already mingled with the soil of a foreign country, but their claims upon the justice of their countrymen can never cease, nor can my obligation to them be ever forgotten or disregarded.

"No, sir, the voice of Harden—that voice which has so often been heard in this hall, as mine now is, though far more eloquently, the voice of Harden and of McKee, and the accomplished Clay, each wrapped now in his bloody shroud, would reproach me from the grave, had I failed in this act of justice to them, and to others, who fought and fell by my side."

For this manly, truthful, fearless defense of his fellow-soldiers, he was challenged by Jefferson Davis, and he promptly accepted the challenge, and they were to have fought with rifles, but the rumor of the duel reached President Taylor, the father-in-law of Davis; and he and other friends interfered and the combat did not take place.*

E. D. BAKER.

The name of Baker has been mentioned. Let me add a few words in regard to him. An anecdote, incredible, but yet indicative of his intense ambition and therefore characteristic, has been often told around the mess-table of the early circuit-riders and judges of Central Illinois. It is said that soon after he settled in Springfield, a friend found him seated on a fallen tree in a grove near that place, weeping very bitterly. On being pressed to tell the cause of his grief, he said, "I have been reading the Constitution of the United States, and I find a provision in it,

* See Speech of I. N. Arnold, in reply to John A. Logan, made in the House of Reps., January, 1857, and republished in *Chicago Legal News*, January 24th, 1880.

that none but native-born citizens can be president; I am an Englishman by birth and I am ineligible!"

However intense his ambition, he was a natural orator. After serving in Congress, as the successor of Abraham Lincoln, he removed to California, where he pronounced, at San Francisco, the far-famed funeral oration over Senator Broderick, killed in a duel. Assassinated; as he declared, after receiving his death wound, because he opposed the extension of slavery and exposed a corrupt administration.

Going to Oregon, Baker returned as senator from that State. After a short and brilliant career in the Senate, he entered the military service and fell at Ball's Bluff, pierced with nine bullets; falling at his post, because, as he said, "a United States senator must not retreat."

I would be glad to recall the great speech he made in the Senate, in reply to John C. Breckenridge. Breckenridge, you will remember, was vice-president and presided over the Senate during the administration of Mr. Buchanan. After dividing the Democratic party in 1860, and possibly preventing the election of Douglas for president, he returned to Washington at the special session of 1861, as senator from Kentucky. He found the seats of nearly all his old Southern associates deserted, many of his old friends being now in arms against the Government. I remember seeing him very often at this session. He looked grave, gloomy, and sometimes sad, as I saw him riding alone in his carriage to and from the capitol, and he soon came to be looked upon as a spy as well as a traitor. He reminded me of Cataline plotting the destruction of Rome. While the rebel troops were gathering around Washington, and the rebel flag could be seen from the dome of the capitol, across the Potomac, he made an elaborate speech in the Senate, full of sympathy and encouragement for the rebels, and trying to show that the National Goverment had no constitutional power to coerce the seceding States. To this treasonable speech Baker replied with consumate ability. He charged Breckenridge with uttering treason and with giving aid to armed rebellion. The scene in the senate chamber, on that day, was as dramatic as when Cicero

denounced Cataline before the conscript fathers of Rome. At length, Baker turned directly toward Breckenridge, upon whom every eye was fixed, and said:

"What would have been thought if, in another capitol in an ancient republic, in a yet more martial age, a senator as grave, not more eloquent or dignified than the senator from Kentucky, yet with the Roman purple flowing over his shoulders, had risen in his place, surrounded by all the illustrations of Roman glory, and declared that the cause of advancing Hannibal was just, and that Carthage ought to be dealt with in terms of peace? What would have been thought if, after the battle of Cannæ, a senator there had risen in his place and denounced every levy of the Roman people, every expenditure of its treasure, and every appeal to the old recollections and the old glories?"

At the close, Baker paused, and for a moment there was not a sound, not a movement: then the silence was broken by the voice of Senator Fessenden, who, in low, deep tones, thrilling with indignant feeling, said: "In Rome, such a senator would have been hurled from the Tarpeian Rock!" Baker, resuming his speech, said, "Sir, a senator, more learned than myself, tells me, in a voice that I am glad is audible, he would have been hurled from the Tarpeian Rock."

Breckenridge left the senate chamber for the rebel camp, and it was Trumbull who thereupon impeached and convicted him of treason. Senator Trumbull introduced a resolution which was unanimously adopted, "That John C. Breckenridge, the *traitor*, be, and he hereby is, expelled."

JAMES A. M'DOUGALL.

And now I am reminded of another brilliant lawyer from Illinois, who emigrating to California, came back its senator. James A. McDougall was attorney-general of Illinois in 1842. Coming to Chicago, he rode the circuit with us several years, and was regarded as one of our ablest lawyers. Calling upon him one evening, I found him on his parlor floor with maps of California and the United States spread out before him. He was studying the overland route to the Pacific. He started soon after, lost his

way, wandered long in the mountains, barely escaping starvation, and finally reached San Francisco in rags, clothed partly in skins, without money, and not having seen a barber or razor for months. He went to the best hotel in the city, and was at first refused admittance, but after explanation was received.

He immediately sent for Hiram Pearsons, then a California millionaire, and formerly a client of McDougall's in Chicago, by whom his wardrobe and every other necessity was liberally supplied. Pearsons then gave him some important cases in court, and very soon Mr. McDougall returned a member of congress, and soon after senator.

I heard Charles Sumner say that Senator McDougall spoke better English than any other man in the United States senate.

It was the good fortune of President Lincoln to be sustained by three senators who had been his old friends and associates at the Bar of Springfield: Douglas, Baker, and McDougall, the two latter as senators from the Pacific coast; one, Baker, elected as a Republican, the other, McDougall, elected as a Democrat.

LYMAN TRUMBULL.

A very conspicuous member of the Illinois Bar, in what we now call its early days, was Lyman Trumbull. The distinction he acquired then as a lawyer and on the bench of the Supreme Court, has been so eclipsed by the national reputation he made as a United States senator, that the former has been almost forgotten. He was elected to the Senate in 1855, and served in that body eighteen years. As he is still among us (and long may he remain) I cannot speak of him as freely as I have of some of his contemporaries. But I should like to do something toward making our people appreciate the great public service rendered by one now living so quietly and modestly among us. I do not think it extravagant to say, that there are few of our public men now living, if we except two or three great soldiers, to whom our country owes more. In Great Britain, or in any of the great nations of Europe, a man who had rendered such service would have been rewarded with titles of high nobiltiy and wealth. As a practical legislator, as a man for useful, thorough, and honest work, guided

by the purest motives, and the clearest good sense, he had no superior in the Senate. As chairman of the judiciary committee during the rebellion, he largely shaped and guided the legislation of Congress.

The constitutional amendment abolishing and prohibiting slavery was reported from the judiciary committee by him. The committee wisely adopted the language of the ordinance of 1787, and his able advocacy did much to carry the amendment through Congress. He was a practical statesman, always a conservative, and still a reformer. No greater contrast can be conceived than that between him and the learned, eloquent, scholarly, and pure, yet sometimes impracticable senator from Massachusetts, Charles Sumner. As a leader in the great anti-slavery revolution; as a man to attack a moral wrong, Sumner was very great, but for practical legislation, as a judge of the best means of remedying an evil, he was comparatively weak. On a question of right and wrong, none surpassed him, but he was not pre-eminent for constructive ability. A striking illustration of the difference between these two able men, was afforded in their treatment of the anti-slavery amendment. Trumbull wisely adopted (as has been said) the language of the ordinance of 1787. Lawyers will appreciate the importance of this when they remember that it had been the subject of judicial construction. The exact meaning of the words had been settled. Mr. Sumner proposed to substitute for it the vague, indefinate, theoritical language of the French Constitution of 1791. Mr. Trumbull said: "I would not go to the French revolution to find the proper words for a Constitution." After discussion, Mr. Sumner withdrew his proposed amendment, and the joint resolution was adopted as Mr. Trumbull had reported it. There was another act of his which, at the time, required a courage higher and much more rare than that of the soldier who faces death on the battle-field, but which I suppose to-day is approved by all, or nearly all, thoughtful and intelligent men. I mean his decision against the impeachment of Andrew Johnson. He sacrificed himself as a party-leader, in the discharge of a high duty. I have no sympathy with his present political associates, but I honor him for the great service he rendered the country, and for his bold, self-sacrificing discharge of duty.

THE PLEA OF INSANITY ON AN INDICTMENT FOR MURDER.

And now I trust I shall be pardoned the egotism of introducing two or three personal reminiscenses. Our profession has been often reproached for interposing the plea of insanity to prevent the punishment of crime. My own experience leads me to the conclusion, that irresponsible persons have more often suffered than that the guilty and justly responsible have escaped. In one instance, at least, it was my good fortune to save from the gallows a wholly irresponsible homicide. More than thirty years ago, the people of McHenry County were shocked by what seemed a most horrid murder. A young German farmer, about twenty-one years old, respectable, easy in his circumstances, was engaged to marry a young German girl. They were at work together harvesting a field of wheat; the field was remote and secluded, and with no known motive he killed her. Immediately arrested, he was saved by the officers, with some difficulty, from the summary indignation of the people. I was sent for by his family to defend him, and when on my arrival he was brought into the sheriff's office, that I might confer with him, the moment I looked into his eyes, the conviction flashed upon me that he was insane. No suggestion of that kind had been made, and when I made inquiry of his relatives, I could hear of no facts confirming my impression. No one of his intimate associates had suspected anything wrong about him. He spoke very imperfect English, and I was baffled in seeking proof tending to show unsoundness of mind. Still his eye was wild and had that peculiar look, which I believe no man can simulate, that indicates madness. It happened that a young friend of mine, a physician, who had been an assistant in the New-York Insane Asylum, was visiting at my house, and he had accompanied me to McHenry. I turned the prisoner over to him for examination, and after several interviews he pronounced him insane. At length his trial came on, and the only issue made was on the subject of sanity. The people became so excited and exasperated, by what, in their honest, but blind prejudice, they regarded as a sham defence, that some of them threatened to lynch both lawyer and prisoner, but fully persuaded that he was

mad, I determined to save him from the gallows. I sent for Doctor John Evans, the founder of the town of Evanston, and after whom it was named. He was an expert in cases of insanity, having had charge of the State Insane Asylum of Indiana. He also pronounced my client insane. The trial lasted some ten days, and on the Sunday which intervened, the jury were taken to a camp-meeting, in a grove near by, to attend religious service, which consisted among other things, of prayers that the guilty might not escape, through any device or sham defence of counsel, and that the jury might have the firmness to do their duty. A sermon was also preached to them, in which they were admonished not to be misled by the prisoner's counsel. After a fearful struggle, I succeeded in convincing two of the jury that the prisoner was insane, and after having been out forty-eight hours, unable to agree, they were discharged.

I took a change of venue, and on a second trial, in Chicago, the evidence of madness was so clear that Patrick Ballingal, the State's-attorney, said he would not ask a conviction, and the jury without leaving their seats, found him not guilty, because—insane. He was sent to an asylum, and died within a few months a maniac. A *post-mortem* examination showed an ulceration of the brain, which doubtless caused his madness. I have always felt that in saving poor Henry Brydenbecker from the scaffold I had prevented a grievous wrong.

MANSLAUGHTER OR MURDER?

I will now narrate another case, showing upon what slight circumstances the verdict of a jury sometimes turns. I can not now recall the year, and my notes of the case were burned in the great fire of 1871. I think about 1846, my friend Bronson Murray, who then lived at Deer Park, LaSalle County, sent for me to come to Ottawa and defend his hired-man, who, killing a neighbor in a quarrel, had been indicted for murder. A sudden quarrel had arisen, and the prisoner, seizing a hickory stake from his sled, had struck the deceased one hard blow on the head, producing death.

I sat down to the trial, supposing I had a clear case of man-

slaughter, and one free from difficulty, and that the only question would be the extent of my client's imprisonment. There was no controversy about the quarrel and the blow, and that death was the result. These facts having been proved, the prosecution called the officer who had arrested the prisoner. He was a large muscular man, very dark and sinister in his appearance, and as he took the stand I saw him scowl at the prisoner, who was an impulsive, passionate Irishman, in a way that startled me. I immediately asked the defendant if he had ever had any difficulty with the witness. "Yes," replied he, "the witness hates me, and has threatened to have me hanged."

After describing the arrest, the witness was asked: "Did you, on your way to the county jail, have any conversation with the prisoner in regard to the killing, and if so, state what he said?" He replied, "On our way, as we were riding across the prairie, I asked him what made him strike the deceased, and why he struck so hard. Prisoner answered, 'Damn him, I'm glad he is dead; I have long had a grudge against him, and I am damned glad I have killed him.'"

"Take the witness," said the State's-attorney in the tone of a man who has made out his case,—and he had. The witness had supplied the proof to change the killing from manslaughter to murder, and unless I could break down or contradict him my client was lost. By one of those impulses, which I cannot explain, but which all of us have often experienced, I felt that the witness had been swearing false. I knew it, but how could I make it manifest to the jury? The terrible confession was made as the witness said, when he and the prisoner were alone upon the prairie, and therefore there was no possibility of contradiction. "It is a lie, every word of it," whispered the prisoner; I knew it perfectly well, but how to prove it?

I began the cross-examination without a plan; at first putting a few questions quietly, and studying the man, who I had never before seen. After a few unimportant questions, asked to gain time, and try and make out what manner of man he was, I led him back to the confession. I asked him if he was sure he had repeated the exact words of the prisoner? He replied, "I have

told you the very words. I have not altered one of them." I saw he was one of those who, if he once swore the horse was sixteen feet high, would stick to it. I then asked him to repeat the confession, which he did, and as I expected, with variations from his first statement. I then called his attention to the fact that some months had passed between the confession and the trial, and then asked him why, if in his direct evidence he had given the identical words, he could not now on the stand repeat them twice in the same way. He thought it necessary to strengthen his statement, and he said: "I wrote down at the time what the prisoner said, so I might not forget it, and I have got the paper yet, and I have read it over to-day, and it is in the very words I first stated." I knew that he was lying, I felt it, and I arose and asked him, sternly, "Where is the paper? Tell me instantly."

"In my pocket," said he. "Produce it," said I. I knew that he had no such paper. He turned pale, the sweat rolled down his face.

On my repeating my demand for the paper, he refused point blank.

I repeated, "You have sworn you wrote down at the time on paper, the statement of what the prisoner said; that you brought that paper with you to court; have read it over to-day, and that you have it now in your pocket. Is this true?" "Yes," said he, falteringly. "Then," said I, "will you produce it and let me see it?"

"No," said he, "no lawyer shall see my private papers."

"Is there anything on the written paper besides the memorandum of what the prisoner said?" inquired I.

"Yes, on the same paper are private writings, which no man shall see."

"Hold the paper in your own hands then, so that I can see and read only the memorandum. Have you any objection to that?" said I. "You shall not see any of it," said he. He was sinking deeper and deeper in the morass. "Very well," said I.

"Perhaps you will allow the judge or the jury to see it, if you don't wish me to see it?"

"Nobody shall see it," said he.

"May it please the Court, this has gone far enough," said I. "The witness has no such paper, and never had, and I now ask the Court to make an order that he produce the paper, or be committed to jail until he does produce it."

The judge made the order, and as the hour for dinner had come, adjourned. I knew that my client was saved; not by any skill of mine, but by what I hardly know how to characterize; but I think we old lawyers often see results which indicate that there is something outside of ourselves, or any known agency, which sometimes leads to the triumph of truth and the protection of the innocent.

On the coming in of Court, the witness was forced to acknowledge that he had no such paper, and the State's-attorney said: "I will not ask the jury to place any reliance upon this witness."

A verdict of manslaughter, and a short imprisonment was the upshot of the trial.

LYNCHING OF THE DRISCOLLS, ON ROCK RIVER.

Pardon one more incident connected with my professional experience, and I will pass to other themes.

The very crest of the wave of emigration to the borderland, seems in many cases to bring along a body of bold and reckless criminals. The imperfectly organized society of the frontier, and the frequent failure of criminal justice in the established courts, often caused the better part of the settlers to supplement the regular courts by Judge Lynch. Whether upon the whole this wild and too often blind, very blind justice, has been productive of more good than evil, may well be questioned. The far-famed vigilance committee of San Francisco, like a tornado, seemed, for a time, to purify the air and the body politic.

In 1840, Northern Illinois, and especially the Rock River country, sought the aid of Judge Lynch, to drive out and exterminate horse-thieves and other criminals; and, in 1841–2, there were organizations known as "Regulators," which exercised arbitrary power of banishment, confiscation, and lynching. These organizations generally originated with the better class of citizens, but

they were sometimes abused for purposes of personal vengeance and private gain. They sometimes inflicted grevious injustice, and even death, upon the innocent. Early in 1841, one John Campbell, of Rock Grove, in Ogle County, a very respectable man, was elected captain and leader of the Regulators. A family, by the name of Driscoll, who were suspected of being horse-thieves, and some others of bad repute, were notified to leave the country within twenty days, under penalty of being lynched. The threats of Campbell roused the tiger passions in some of these threatened men. Some of them were criminals and outlaws, and some were probably innocent. When notified to abandon their homes and fly, they determined to resist, and some of them resolved to anticipate the threatened lynching by killing Campbell.

On Sunday, the 26th of June, 1841, Campbell, who had been to Rockford, at church, was seated quietly smoking in front of his house, with his family around him. Two strangers were seen approaching, on horseback, with rifles in their hands. They stopped at his gate, and inquired the way to a place called Killbuck. Campbell stepped forward to show them the road, when one of them, as he came near, shot him through the heart. His wife caught him as he fell, and as the other stranger was about to fire, she cried: "Boys, you need not shoot again, you have killed John Campbell—dead!"

Their son, a brave lad of twelve years, ran into the house, seized his father's gun, and snapped it several times at the men, but it missed fire, and they fled, and got away out of the country. But John Driscoll, the father, and William Driscoll, the brother, of those who were believed to have committed the crime, were arrested by the exasperated settlers. Their houses were burned and their property was destroyed, and they were taken to Mrs. Campbell's house, while her husband's body was still unburied, to see whether she could recognize either as the murderer of her husband. She declared that neither of them was the person who shot him, nor were either of them present. When she was told to look at William Driscoll, she did so, and said: "I never saw that man before." She added: "David Driscoll shot Campbell; him I knew; the man with him I did not know, and I

should not know him if I should see him." Her son said the same, that neither John nor William Driscoll was the person who shot his father, nor were either of them with the man who fired. Nevertheless, the mob, wild with passion, determined to avenge Campbell's death, and as David Driscoll and his companion had escaped, yet as John and William were Driscolls, and by many believed to belong to the same gang, the crowd took them with ropes around their necks to White Rock Grove. Here gathered a large crowd, and after going through some rude forms of trial, it was voted to hang the Driscoll's, but the mode of execution was changed, and it was decided they should be shot. It was a very natural incident to this barbarous tragedy, that the trial, so-called, being near a distillery, a barrel of whiskey was rolled out into the grove, the head was knocked in, and the frenzied crowd added to their madness by drinking freely out of its fiery contents. They decided to give the wretched prisoners an hour's time to prepare for death, and that they should have what the crowd, with a grim and savage humor, called "the benefit of clergy." A preacher, one of their leaders, first going to the whiskey barrel, and taking a dipper of raw whiskey and drinking liberally, kneeled on the grass and prayed loud and fervently for the doomed men. Then the old man John was led out in front of one hundred rifles, blindfolded, made to kneel facing his executioners, and was riddled with the bullets of a hundred rifles fired into him. William was then led out and made to kneel by the side of the mangled remains of his father, and the rifles were again discharged, and thus ended the horrid tragedy. William is said, in a late history of DeKalb County, to have been a man of noble bearing, generous, hospitable, and industrious, with a large property honestly acquired. Both father and son died with the courage of heroes.

The mob then went to the late residence of their victims, burned their barns and destroyed the remains of their property. No one dared give food or shelter to the houseless family, and they were compelled to live in a corn-crib, until they could get away. Such was mob justice in 1841. May we never see any more of it.

I became familiar with the above facts as the counsel of Taylor Driscoll, a son and brother of those whose execution I have described.* At the time of the murder of Campbell, he was seventeen years old, on the 9th of April, 1847, six years afterward, having been indicted for the murder of Campbell, he was brought to trial at Woodstock, in McHenry County, before Jesse B. Thomas, associate-justice of the supreme court. I was associated with Judge Barry, of Kane County, in his defence. Mrs. Campbell, although she had declared at the time that she did not know and would not know who was with David Driscoll when he shot her husband, now testified that it was the prisoner. It was proved that she had been mistaken in identifying the brothers of the accused on several occasions, when she was equally positive, and that she had made statements conflicting with those she now made on the trial. We sought, and I think succeeded, in making the jury believe she was mistaken in identifying the prisoner, but the fact that the father and the brother of our client had already died for the crime, was not without its influence upon the jury. A few sentences from the argument in the defence will show how the trial was conducted. After describing the scene of the trial of the Driscolls, the shooting of the old gray-haired father; it is said, "a young man in the full vigor of life walks with a firm step to kneel beside the remains of the old man, and as he walked he could see in the distance, across the prairie, the smoke of his burning cabin. A homeless, widowed wife, and orphaned children looked in vain for his return.

"Alas, nor wife nor children more shall he behold."

As we look back upon the scene, it seems almost incredible that it could have occurred, less than forty years ago, among a people so law-abiding as those which settled Northern Illinois.

The counsel for the defendant added: "The prisoner was, at that time, only seventeen years of age. He fled in terror from the ashes of his burned-up home, the graves of his father and brother. He fled, and after years of wandering and hardship,

* I have a copy of the argument in defense of Taylor Driscoll, printed by Geer & Wilson, at Chicago, in 18.;7, in my possession.

trusting that time had weakened the rancor and the prejudice against his family, he returned, but soon the old enemies, sleepless and implacable, were upon his track. A blood-hound in pursuit of his prey, an Indian savage on the trail of his deadly foe is not more fierce than the unrelenting vengeance with which this young man has been pursued. An Indian's vengeance has its limits, a life for a life, blood for blood, heals the red-man's feud. In this case, two have already suffered for the death of Campbell; two probably innocent men, and now another innocent victim is demanded."

The mother of young Driscoll was awaiting the result of the trial, with an anxiety which I should vainly attempt to describe. Her joy, her rapture, when this, her youngest, and favorite son, was pronounced not guilty, and set free, I shall never forget.

LINCOLN AND DOUGLAS.

I have detained you already too long, but I cannot close without saying something of the two great lawyers and statesmen, Lincoln and Douglas, whose names are as household words throughout the Republic. You know that Congress has set apart the old Hall of the House of Representatives at the capitol, in which each of the States has the privilege of placing statues of two of her great men. Massachusetts, Vermont, New York, and several other of the old States, have already placed statues of those of their citizens, thought most worthy, in this old historic room, and it is already appropriately called the Hall of Statues. I suppose the people of Illinois would, by common consent, designate Lincoln and Douglas, as the proper persons to be thus commemorated, and I would suggest to our next Legislature to provide that it should be done.

I wish I could reproduce, or give you some adequate idea of the argument of Douglas in the case of the Canal Trustees *v.* Daniel Brainard, argued at Ottawa in June, 1851.

The case involved several hundred thousand dollars in amount, and arose upon the construction of the statute giving to the owner of improvements on canal lands in this City, the right to purchase the land on which such improvements were situated, at

the appraised value. Should the owner be limited to such lots and blocks as his improvements covered, or had such owner the right to purchase at the appraisal the whole quarter-section, or other subdivision, on which his improvements were placed.

Property had risen greatly in value since the law had been passed and the appraisal had been made, so that if the owner of the improvements should be confined to the lots and blocks covered by his improvements, he would still have a great bargain, but if he could take the quarter-section at the appraisal, it would be a fortune. I had argued the case in the Circuit Court, in behalf of the Canal Board, against James H. Collins, Judge John M. Wilson, and Norman B. Judd, each of whom had studied the case with great care, and argued it with great ability. In the Supreme Court, Judge Purple, of Peoria, and Robert S. Blackwell were associated with me, and two days before the argument came on, Douglas, then senator, was added to the able counsel against us. He had only a few hours for preparation, and his associates gave him their briefs and all the advantage of their full and exhaustive preparation. All of us, on each side, made arguments, and the associates of Douglas displayed more than usual ability, but when Douglas came to close, his presentation of the case was so fresh, so strong and vigorous, as to astonish us all on both sides. He displayed on this, as on many other occasions, his wonderful power of taking and vivifying the ideas of others, and bringing them out so that they seemed quite new and original. He gave to everything the stamp of his own masterly mind.

The brightest days in the career of Douglas were the last. His conduct toward Lincoln, on the day of his inauguration, and afterward, was magnanimous, noble, and patriotic. His speech at Chicago and at Springfield, a few weeks before his death, was a rallying cry for the Union and the Constitution, worthy of the brightest name in American history. His eloquent words, carried by the press to every section of the Republic, were the means of calling many gallant soldiers to the front. Senator McDougall, his devoted personal friend, arriving from California, and hearing as the pilot came on board his ship, off the harbor of New York, of the death of Douglas, says: "Before I left home I heard this

battle-cry of Douglas resounding over the mountains and valleys of California and far-off Oregon." "It is a far cry to Lochow," but the war-cry of Douglas reached there.

I do not say that had Douglas lived, President Lincoln would have offered him a high military command, but I do say, that the President was very carefully considering the subject, when death decided it.

The name of Douglas is a familiar word in Scottish story, common alike in history, in poetry and romance, but among all who have borne it, from him of "The bleeding heart," all the way down, it seems to me the greatest of them all was Stephen Arnold Douglas.

It fell to me, as the representative in Congress from Chicago, the home of Douglas, to make some remarks in the House, on the occasion of his death. I attempted to compare Lincoln and Douglas, and to do justice to both. Neither Mrs. Lincoln nor Mrs. Douglas were pleased with the comparison. Each expressed to me afterwards her astonishment; one, that anybody could compare Douglas to *her* husband, and the other, that anyone could think for a moment of comparing Lincoln to Douglas! Such was the proud appreciation of her own husband by each, and I honored both for their partiality.

I wish I had time to-night to retouch the canvass on which, in other days, I attempted to sketch these two great leaders, but this must be reserved for another forum and another occasion. These great men, their discussions, their virtues, their lives have passed into history. Each was the acknowledged leader of the great party to which he belonged—rivals and opponents, until the fearful peril of their common country brought them together; and then, like two brothers, they grasped hands to save the Republic, and their names, thus associated, will go down to the remotest posterity.

In the life of this Nation, there have been many great debates. There were great debates in the old Continental Congress on the question of Independence, and other vital topics; great debates on the Missouri question in 1820–21. The debate between Webster and Hayne, and between Webster and Calhoun, were memor-

able, but I think the judgment of the future will declare, that quite the equal in historic interest to either, was the great debate of 1858, between Lincoln and Douglas.

Thus, gentlemen, I have given you some random recollections of a few of the great names of those who were among our leaders at the Bar, in the earlier, may I not say, the better days of our noble profession. They have passed away—nearly all of them. Butterfield, Baker, Bissell, McDougall, Blackwell, Ballingall, Brown, Judd, Douglas, Lincoln, Tracy, Spring,

"The names we love to hear,
Have been carved, for many a year,
On the tomb."

But they have left an unstained record, unsullied honor, pure integrity, truth, fidelity to client and every other trust; seeking success by honorable means alone. For these traits we loved them while they lived, for these traits we will honor and cherish their memories, now that they are dead.

ON Wednesday Evening, January 12th, 1881, the second lecture before the Association was delivered by Hon. James C. Conkling, of Springfield, Illinois.

Quite a large number of ladies graced the occasion by their presence, and it was remarked that more than half of the judges of the Cook County Courts were in attendance.

In the absence of the President, R. Biddle Roberts, Esq., Vice-President, presided.

Mr. Roberts said: Ladies and gentlemen! The agreeable duty devolves upon me of introducing the distinguished and eloquent Lecturer of the evening.

Mr. Conkling has selected for his subject "The Early Bench and Bar of Central Illinois," and when we remember that he was contemporary with, and an active associate in practice during the palmy days, professionally and politically, of those great men who adorned the Bar of this State in passed years, we can realize, in some degree, the rich field from which he can draw for our information and entertainment.

Some few of those men survive; some, very distinguished in the annals of our country, have passed away. The testimony of one who was with them and of them can not fail to interest us all, more particularly the Bar Association.

Mr. Conkling has been a resident of Springfield and a distinguished member of the Bar of this State for nearly forty years, and in giving us, in this way, the benefit of his ripe experience he does us high honor.

Ladies and gentlemen, I have the honor to introduce to you the Hon. James C. Conkling.

RECOLLECTIONS

OF

THE BENCH AND BAR OF CENTRAL ILLINOIS

By Hon. JAMES C. CONKLING, Springfield.

Mr. President and Gentlemen of the Bar Association:

Biography is merely history in miniature. It may occupy only a brief space, but it is more or less connected with the great drama of human life. The personal reminiscences of some may be confined almost entirely to the vale of obscurity, while those of others may be so interwoven with national affairs, that it may be difficult to determine where biography ends and where history begins. Each possesses its peculiar characteristics.

History instructs, biography pleases. The one addresses itself to the intellect, the other to the affections. The one expands the mind, the other intensifies its energies. The one affords a grand and sublime exhibition of the powers of the human will, when driven by the fierce gales of passion and ambition, while the other gratifies the taste and appeals to the pleasurable emotions of a refined and cultivated mind. The one resembles old ocean lashed into fury by the tempest, terrific in its majesty, awful in its grandeur, relentless in its stern decrees, regardless of its victims and involving an universal catastrophe; while the other is like a peaceful river, meandering through pleasant vales, and amidst beautiful meadows, imparting freshness to the verdure and elegance to the scenery.

The personal reminiscences of the mere lawyer, however, have few charms to captivate the popular mind. It is true he may, to

some extent, control events; but like him, who moves the ever-shifting panorama of the stage, he keeps studiously out of sight. His pen may, possibly, be mightier than the sword; his whisperings may be more efficient than the thunders of artillery, his opinions may reach far beyond the din of battle, yet his life may possess none of the pomp and circumstance of glorious war, but may move quietly onward in almost unrecognizable obscurity.

How this is avoided! It is only when he throws aside the dusty tomes of the law, when he turns his back upon the worm-eaten volumes of his library, when he brushes away the legal cobwebs that have obscured his intellect, it is only when he comes out into the pure sunshine of heaven, when he steps upon the broad platform of active humanity, when he comes in contact with the conflicting interests of society, when he plays, with the fingers of a skilful master, upon the excited passions of political life, when he debates, with fierce enthusiasm, the questions of peace and war, when he hurls the quick retort, the fiery invective, the terrible denunciation, when he exposes error, denounces treason, glorifies patriotism, when he upholds the constitution, advocates the integrity of the union, aye, and even apostrophizes the old flag, as the symbol of our country's greatness and glory, it is then that the mere lawyer sinks into insignificance and he stands revealed as the grand and magnificent statesman.

Webster, and Clay, and Benton, and Calhoun, and hundreds of others, profound and eminent as lawyers, might have worn out their lives in haranguing courts and mystifying juries, and have gone down to their graves, "unwept, unhonored, and unsung," except by a few mourning relatives and friends, unless they had shivered their lances in senatorial contests, and gallantly struggled in the political arena with illustrious foes.

It is true, that some lawyers have acquired distinction as legal authors, and as such will be remembered through many generations. Their works may be dry and uninteresting to the general reader, they may abound in too many nice distinctions and subtle abstractions, they may be filled with technicalities and even

absurdities connected with black-letter lore, but yet they contain the broad massive foundations upon which is reared the legal superstructure of the present age. There are, however, some notable exceptions. Blackstone, by the elegance of his style, has thrown a charm over the pages of the law, and almost constructed a royal road for every student who aspires to obtain a knowledge of its principles, while Kent and Story, and a host of others in our own land, have shed a flood of light upon its elementary doctrines, which will reflect honor upon their names, and render them illustrious forever.

It is true, also, that the judicial ermine has graced the shoulders of many lawyers who have won an enviable fame as learned and honorable judges. Mansfield, and Elden, and Ellenborough, have become famous in the annals of English history as pioneers of English law, while Marshall, and Barbour, and Curtis, and Woodbury, and McLean, and Taney, and others, will always maintain a distinguished position in American courts as profound and learned jurists.

The mere lawyer, however, whose name is not inscribed upon the roll of fame as statesman, author, or judge, is liable to be soon forgotten in the lapse of time. He may have been too well contented with the dull routine of courts. He may have become too familiar with contingent remainders and executory devices. He may have striven too earnestly to master the doctrine of uses and trusts. Estates in entail and reversion may have afforded too extensive a subject for his study and reflection. Shelly's rule, like the *pons asinorum* of the mathematician, may have absorbed too much of his time and attention. Or perhaps the intricacies of special pleading may have captivated his mind, and the entire legal system, with all its absurdities and inconsistencies, may have been esteemed by him as the very perfection of reason.

He mourns, therefore, over the march of modern improvement, which tramples with a ruthless heel upon the antiquated remains of the past, and protests against the innovations which have swept away the dust of former ages, and let in the clear sunshine of a more enlightened period.

But though many such specimens may be found at the English bar, yet this is not generally the character of the American lawyer, particularly of the western type. Society here has been, and still is, in a formative condition. Forty years ago, the wants and necessities of the profession did not afford an opportunity for a minute investigation into the records of the past, or a profound study of legal principles. There were but few libraries of a respectable size, either public or private, in this State. In Springfield, there were not more than two or three that contained over fifty volumes. In Peoria, Quincy, and Belleville, the profession was not much better supplied. In Chicago, probably not more than half-a-dozen libraries contained over one hundred volumes. The Revised Statutes, the Illinois form-book, and a few elementary treatises constituted the usual outfit in the smaller towns. Fortunate was the attorney who could boast of a few English reports, or those of New York, Massachusetts, or Kentucky, which were then considered of standard authority. There were but few cases in the courts that required an extraordinary amount of learning to manage. There was no necessity for the application of the rule, *stare decisis*, for there were few or no decisions to stand upon. Good sound common sense, the gift of speech, a mixture of natural shrewdness with politics, and a regular attendance upon the courts in circuit, were the principal requisites for success.

Forty years ago, business was not so great in extent as to occupy the full time of the lawyer. Suits were not so numerous, or so important, as to afford a support for himself and his family. He engaged in political life as an employment, and solicited office to improve his slender income. A much larger number of the prominent members of the legal profession then became members of the State Legislature or of Congress than at present. The people demanded their political services, and they were happy and anxious to accommodate the people. A political contest gave them notoriety among the masses, and afforded them an opportunity to display their abilities. A reputation for eloquence and skill in debate was a recommendation as lawyers in the practice of their profession. Hence, we find the names of

Reynolds, Edwards, Cook, Casey, Breese, Browning, Hardin, Baker, Williams, Shields, Douglas, Trumbull, Lincoln, McClernand, and numerous others almost as frequently, in the political annals of our State, as upon the records of our courts. As lawyers they were eminent. As statesmen many of them became illustrious.

Forty years ago, the suits that were instituted were generally simple in their character. The terrible financial crash of 1837 had left the country in a state of bankruptcy. The vast system of internal improvements which had been projected in this State had been left unfinished. Contractors were unable to perform their obligations. Merchants found it impossible to collect their claims, and could not satisfy their own creditors. The masses of the people were poor, and deeply involved in debt. The two-thirds law was invented for their protection, and the bankrupt law became a refuge for those who were hopelessly insolvent. A very large proportion of suits was for the collection of debts, and to set aside fraudulent conveyances. Actions of slander, and trespass for assault and battery, engendered by the state of feeling incident to pecuniary embarrassment, were frequent. The records of our courts, and the earlier volumes of our reports, were not burdened with many cases of a very serious or complicated character.

The history of the law, as included in these reports, affords a striking illustration of the remarkable growth of our State in population and wealth. The rapid publication of the former has been commensurate with the enormous development of the latter. The sums involved in the earlier actions were small and trifling when compared with those of recent years, which have frequently been colossal in size, amounting to millions of dollars, while the questions to be decided have been of the most difficult and intricate character. Almost an entirely new system of law has been developed, which has required the exercise of sound judgment, clear preception, profound study, and extensive research by our legal tribunals.

The rapid increase of municipal corporations has required the establishment of discriminating rules, by which to regulate their

complicated interests and determine their relative rights and duties. Questions concerning the validity of bonds, involving many millions of dollars, had to be decided in such a manner as to protect the people against the imprudence or the villany of their public agents upon the one hand, and maintain the rights of innocent purchasers upon the other.

The vast increase of life and fire insurance institutions has occasioned investigations of the most complicated kind, while our commercial transactions have multiplied to an almost infinite extent, affecting every department of industry and enterprise, and continually presenting novel questions for settlement by the courts.

The enormous expansion of our railroad system has also demanded the utmost prudence in determining how far the right of condemnation, founded upon the doctrine of eminent domain, should be exercised, and how far the power of the legislature extends in establishing a system of rates and freights, and when it may become necessary and proper to curb the fearful demands and exactions of these overgrown monopolies upon the rights and interests of the masses. It is yet to be determined, either by legislative or judicial authority, how far the present absolute, illimitable *imperium* shall be tolerated in a republican *imperio*, and how long railroad monarchs, with hundreds of millions at their command, shall defy the government made by the people and for the people.

But little assistance could be obtained from the old English reports in regard to the novel and complicated questions that have arisen within the last forty years. The genius of our institutions required our courts to break the shackles and fetters of the old feudal system, and to apply the principles dictated by sound common sense, an enlightened judgment, and a progressive age to the altered and peculiar circumstances in which they were placed. Our judges have found abundant material in the decisions of the courts of our sister States to sustain their opinions, illustrate their arguments, and enforce their decrees, without resorting to English authority; while English judges have drawn inspiration from American foun-

tains of equity and law, and have generously complimented our courts upon the extent of their learning, the diligence of their researches, and the correctness of their decisions.

As long ago as 1821, Judge Story remarked that the mass of American law was accumulating, even then, with almost incredible rapidity, and that it was impossible not to look without some discouragement upon the ponderous volumes which the next half-century would add to the groaning shelves of our jurists. The half-century has already passed away. If Judge Story were now living he would not only look with discouragement, but with absolute amazement upon the perfect avalanche of legal works which issue yearly from the press. It would now require a princely income to embrace them all in a single library, but taken *en masse*, the American reports constitute a monument of enlightened wisdom, erudite scholarship, and profound learning which the world never before has witnessed, and which will command the utmost veneration and respect in the courts of future ages.

Lawyers, however, with that commendable pride by which the profession is characterized, have taken great pains to enlarge their libraries by selecting the best reports and the most exhaustive elementary treatises that can be obtained. In Chicago, especially, many of them, before the great fire, possessed invaluable collections of legal works that would do honor to any city. They were not satisfied by law as modified by our peculiar institutions and the progressive ideas of this enlightened century, but rare works in black-letter print, antiquated binding, and Latin jargon graced their shelves.

The vast commercial interests of this City; the rapid development of real-estate values; the enormous expansion of the railroad system; the unexampled increase of an industrious, energetic population; the municipal regulations, intended for the determination of the rights of *meum* and *tuum*—all demanded whatever assistance could be obtained from the profound learning of former ages, as well as the enlightened wisdom of the present. But the fire of 1871 swept away these accumulated treasures, as well as the wealth and palaces of her merchant

princes. While these latter, with an indomitable energy unsurpassed in the history of any age, were laying the foundations of new and more splendid edifices amid the smoking ruins of the old, it is also true that her lawyers were active and vigilant in ransacking the libraries of the world in order to replace the losses incurred by that terrible calamity. As the stranger looks with amazement at the marble palaces, adorned with colonnades and statuary and all the ornamentation of an improved architectural taste, which have arisen, phœnix-like, from the ashes of the past, he may also regard with astonishment the splendid libraries, public and private, which adorn the City, and prove that lawyers are not drones in society, and that energy and enterprise are not confined to the mercantile and manufacturing classes of the community.

Forty years ago, many of the lawyers who had assisted in the formation of the original Constitution of our State, and who had helped to mould the character of our institutions, had passed away.

Among them were Gov. Edwards, who is generally recognized as a gentleman of the old school, courtly in his manners, with knee-breeches, ruffled-shirt, and fair top-boots; but a lawyer and politician of distinguished ability. Elias K. Kane, who was United States senator, and to whom principally we were indebted for many of the peculiar features of our first Constitution. Daniel P. Cook, who was our first Attorney-General, and afterward member of Congress, and who is represented as "a man of eminent talent and accomplishments." George Forquer, who was also Attorney-General and a member of the Legislature of 1832, and chairman of the committee on internal improvements at the session of 1834. Also Benjamin Mills, who was one of the most brilliant orators of his time, and who was engaged in prosecuting the impeachment of Judge Smith, and who spoke for three days during that proceeding in a strain of unsurpassed eloquence.

But John Reynolds, Sidney Breese, Zadoc Casey, Henry Eddy, Samuel D. Lockwood, Nathaniel Pope, William J. Gatewood, and others, still survived, and were engaged more or less actively in

the duties of their profession, in judicial positions, or in the more exciting affairs of political life.

About that time younger members of the bar began to appear upon the public stage in Central Illinois, many of whom have since acquired great eminence in their profession, and high distinction in the political history of the State and Nation. Among them are Stephen A. Douglas, Abraham Lincoln, John J. Hardin, James Shields, John A. McClernand, O. H. Browning, Archibald Williams, John T. Stuart, Lyman Trumbull, E. D. Baker, and Stephen T. Logan, whose names may be frequently seen in the earlier reports of the Supreme Court and some of whom still survive.

Our first Constitution was framed in the summer of 1818. It established a Supreme Court of four judges, who were also required to hold Circuit Courts, and who, with the governor, constituted a Council of Revision. They were elected by the General Assembly. Joseph Phillips was the first Chief-Justice, and Thomas C. Browne, William P. Foster, and John Reynolds were Associate-Justices.

Phillips was represented as a lawyer of fine intellectual endowments. He resigned his seat upon the bench in 1822, and became a candidate for governor against Edward Coles, but was defeated. Thomas Reynolds was appointed in his place.

Judge Foster is described, historically, as no lawyer and a great rascal. It is said that he never read or practised law, but obtained his appointment by his winning and polished manners. He was assigned to the Wabash district, but resigned his position before he entered upon the duties of his office, and William Wilson was appointed his successor in August, 1819.

Judge John Reynolds says that the material for the bench was not at that time as good as it might have been; but the State government was launched into existence, in the hands of common-sense men, and sound and honest patriots; that the judges were all young and had not that long practice at the bar that was necessary to give standing and character to their decisions; but the law was administered with less form and ceremony, yet with as much equity and justice as at the present time.

As an evidence of the want of form and ceremony, he relates that he held his first court, in the spring of 1819, in Washington County, among his old friends and comrades. The sheriff was an old ranger like himself. Sitting astride a bench at the court-house, at the commencement of the term, he proclaimed, without rising: "The court is now open! John is on the bench."

Not long after, in Union County, where he presided, the deputy-sheriff exclaimed: "Oh yes! oh yes! oh yes! the honorable judge is now opened."

In January, 1825, the Legislature elected Wm. Wilson, Chief-Justice, and Thomas C. Browne, Samuel D. Lockwood, and Theophilus W. Smith, Associate-Justices, and required them to hold the Supreme Court twice a year, at the seat of Government. It created five judges, John Y. Sawyer, Samuel McRoberts, Richard M. Young, James Hall, and John O. Wattles, who were to perform Circuit-Court duties at the munificent salary of $600 per annum. But the people were so dissatisfied with the extravagant expenditure of the public money that the next Legislature repealed the law, divided the State into five circuits, retained R. M. Young as judge of the Circuit Court in the military district, and required the Supreme judges to hold Circuit Court.

Judge Wilson, at the time of his elevation to the honorable position of Chief-Justice, was only twenty-nine years of age. He had already been upon the Supreme bench five years as Associate-Justice. He was born in Virginia in 1795, and came to Illinois in 1817. Within a year after his arrival, he was chosen to the place of Judge Foster. He was remarkably correct in all his transactions, and secured the confidence and esteem of the people by his gentlemanly deportment and the urbanity of his manners. He remained upon the bench until the Constitution of 1848 went into effect, when he retired to private life. As a writer, his style was clear and distinct. As a lawyer, his judgment was sound and discriminating. As a judge, his learning and impartiality commanded respect, and his public opinions are characterized by sound reasoning and good sense.

Judge Browne also remained upon the bench until the new Constitution was adopted, although a strenuous effort had been

made to remove him by impeachment at the session of the Legislature of 1842–3.

He had been a member of the Supreme Court since the adoption of the Constitution of 1818. He was kind and gentlemanly in his deportment, and friendly to all, but possessed no legal attainments, and was utterly unfit for the high and responsible position which he occupied. The few decisions which he rendered were upon the points of practice, or upon questions of the simplest character. The estimation in which he was held by his brother judges may be inferred from the following incident: On one occasion, when a case had been referred to him for decision, he requested time for deliberation. "O pshaw, judge," said one of the court, "you may as well guess now as at any other time."

The attempt to impeach him was on the ground of incompetency. His home had been at Shawneetown, but upon the reorganization of the Supreme Court, he had been assigned to the Galena district, with the hope that this stroke of unfriendly legislation would be unsatisfactory and induce him to resign. But as he was willing to accept the position with all its inconveniences, a determined effort was made to remove him, and specifications were filed before the Senate by Thos. Drummond, S. C. Hempstead, Thompson Campbell, and A. L. Holmes, charging that he did not possess that natural strength of mind, nor the legal and literary learning, indispensable to the proper discharge of the high and responsible duties devolving upon him as a judge of the Supreme Court; that his opinions in that court were written and revised by others; that his decisions upon the Circuit were the mere echoes of the ideas of some favorite attorney; and that by nature, education, and habit, he was wholly unfit for his position. The Senate, however, declined to examine into the charges. The House, in committee of the whole, went several times into their investigation, but finally asked to be discharged from their further consideration.

Judge Browne therefore retained his position, and remained upon the bench until the Supreme Court was reorganized under the new Constitution.

Judge Lockwood had been Attorney-General in 1822. About that time an attempt was made by many prominent politicians to convert Illinois into a slave-state. The Legislature of 1822 passed a resolution, recommending the electors to vote at the next election for or against a Convention, the avowed purpose of which was to amend the Constitution, so that slaves could be introduced into the State. The late Chief-Justice Joseph Phillips, the newly-elected Chief-Justice Thomas Reynolds, Judge Theophilus W. Smith, Judge Samuel McRoberts, and R. M. Young, afterward judge of the Supreme Court, were all in favor of the amendment. But Judge Lockwood, and other able writers and orators, were zealously opposed to it. A bitter canvass raged for nearly eighteen months, in which the question of introducing slavery was discussed in the midst of great excitement. The Convention scheme, however, was finally defeated by a majority of about eighteen hundred, and Illinois remained a free-state.

Judge Lockwood was elected Justice of the Supreme Court by the Legislature, in January, 1825, and remained upon the bench until the adoption of the Constitution of 1848. He was remarkably modest in his character, but a man of great intelligence, energy, and determination. He was inflexibly honest and upright, a sound lawyer, an impartial judge, and an ornament to the bench.

Judge Smith was also elected as Associate-Justice of the Supreme Court by the Legislature, in January, 1825. Judge Ford says: "He was a sagacious, active, and blustering politician. He had for a long time aimed to be elected to the United States Senate. His devices and intrigues, to this end, had been innumerable. In fact, he never lacked a plot to advance himself or to blow up some other person. He was a laborious and ingenious schemer in politics, but his plans were always too complex and ramified for his power to execute them. Being always unsuccessful himself, he was delighted with the mishaps alike of friends and enemies; and was ever chuckling over the defeat or the blasted hopes of some one. But he made nothing by all his intrigues. By opposing the Reform Bill, he fell out and quarreled with the leaders of his party. He lost

the credit he had gained by being the Democratic champion on the bench. He failed to be elected to the United States Senate, and was put back to the laborious duty of holding Circuit Court."

At the session of the General Assembly of 1832, he was impeached and tried before the Senate. The House reported four different specifications for malpractice and corruption in office. The managers on the part of the House were Benjamin Mills, John T. Stuart, James Semple, Murray McConnell, and John Dougherty. The defendant's counsel were Sidney Breese, Thos. Ford, and Richard M. Young.

The trial attracted great attention, not only at the seat of government, but throughout the State. It occupied about one month. The vote in the Senate was about equally divided; but, as the Constitution required a majority of two-thirds to convict, the judge was acquitted. He retained his seat upon the bench until December, 1842, when he resigned.

Notwithstanding his reputation as an unscrupulous politician, Judge Smith was recognized as a man of strong mind and considerable mental vigor, and as a good lawyer.

In 1835, the Legislature again created Circuit Judges, and continued to add to their number until there were nine circuits. But by the act of 1841, it legislated the nine judges out of office, increased the number of the Supreme judges from four to nine, and elected Thos. Ford, Sidney Breese, Walter B. Scates, Samuel H. Treat, and Stephen A. Douglas, all Democrats, in addition to the four judges then upon the bench. The change was a bitter partisan measure, and, in the language of Governor Ford, "one confessedly violent and revolutionary, and could never have succeeded except in times of great party excitement. The contest in the Presidential election of 1840 was of such a turbulent and fiery character, and the dominant party in this State had been so badly defeated in the Nation at large, by the election of General Harrison, that they were more than ever inclined to act from motives of resentment and a feeling of mortification. The dominant party, therefore, came to the work, thirsting for revenge, as well as with a determination to leave nothing undone to secure their power in this State at least."

Two important suits were connected with this change in the judiciary system. An attempt was made to remove Alexander P. Field from the office of Secretary of State. He and three of the Supreme judges belonged to the Whig party. When Governor Carlin came into office in 1838, he claimed the right to appoint a new secretary before any vacancy existed. He nominated John A. McClernand; but the Senate, by a vote of twenty-two to eighteen, declared that the executive did not possess the power to nominate a secretary, except in case of vacancy, and they therefore rejected the nomination. After the adjournment of the Legislature he undertook to appoint McClernand as secretary, who thereupon demanded possession of the office, but was refused. McClernand then filed an information, in the nature of a *quo warranto*, before Judge Breese, in the Circuit Court of Fayette County, who decided in his favor. Field took an appeal to the Supreme Court, where the decision was reversed. Aside from the political questions involved, the case was of considerable importance. Able counsel appeared on each side. For the appellant were Cyrus Walker, Justin Butterfield, and Levi Davis. For the appellee, Stephen A. Douglas, Jas. Shields, and Wickliffe Kitchell, the Attorney-General. Wilson and Lockwood, the Whig judges, concurred, and Smith dissented. Browne being connected with the relator, declined to sit in the cause. The Court decided that the Governor did not possess the power of removing the Secretary of State at his pleasure; that when that officer was once appointed, he continued in office during good behavior, or until the Legislature limited the term or authorized some public functionary to remove him. The decision caused great excitement in political circles against the "Whig Court," because it prevented the Democrats from occupying one of the principal offices of the government; and it had a considerable influence in causing a reorganization of that tribunal.

But there was another suit which was considered of far greater political importance, and which threatened the Democratic party with the danger of losing their political control of the State, and consequently all their power and patronage. This was the

celebrated Galena alien case. The Constitution of 1818 provided that in all elections, all white male inhabitants, above the age of twenty-one years, having resided in the State six months next preceding the election, should enjoy the right of an elector. Nine-tenths of the foreign vote were Democratic, and as the aliens numbered about ten thousand, if they were excluded from the polls, the approaching Presidential election would be determined in favor of the Whigs.

In order to test the right of aliens to vote, without having been naturalized, an agreed case was instituted in the Circuit Court at Galena, between two Whigs, to recover the penalty of $100 under the law of 1829, because the defendant, who had acted as judge of the election, had received the vote of an alien. Judge Dan Stone, before whom the case was tried, decided that an alien was not entitled to exercise the electoral franchise, and therefore imposed the penalty prescribed by the statute. The case was immediately taken to the Supreme Court, and ably argued upon its merits at the December term, 1839, but was continued to the next June term, during the heat of the Presidential canvass. There was a general apprehension that the case would be decided by the Whig Court against the right of aliens to vote, whereby the State would be carried by the Whig party. But Judge Smith came to the rescue of his friends, and pointed out to the counsel a clerical defect in the record, which caused a continuance of the case to the December term, beyond the date of the Presidential election. When it came up for final decision, the constitutional question was avoided, and the Court very properly decided that as the alien, whose vote was in question, was, by admission of both parties, possessed of all the qualifications required by the law of 1829, the Court erred in imposing the penalty.

Meanwhile, the bill to reorganize the Supreme Court was pending before the Legislature. It was boldly charged by Douglas in a speech before the lobby, which in those days had considerable political influence, that the main question had been purposely evaded by the Court, so as to conciliate Democratic favor and defeat the bill. Its introduction had created a great

deal of feeling and excitement among all parties. It was not only opposed by the members of the Supreme Court, but also by the nine Circuit judges, a majority of whom were Democrats. It finally passed, however, but was returned by the council of revision with their objections. They regarded it as physically impossible for nine judges to hold Circuit Courts in all the counties of the State, and discharge their duties as a Supreme Court, and also attend at the seat of government as a council of revision. The nine Circuit judges had found it impossible to attend to all the business, in consequence of the vast increase in the number of suits. To impose this burden upon the Supreme judges, in addition to their other duties, they contended would result in great delay, if not in an absolute denial of justice. The bill, however, was repassed in the Senate, notwithstanding the objections, by a large majority; but in the House of Representatives by only a majority of one.

A protest was signed by thirty-five members of the House and spread upon the journals. Among the names we find those of the following lawyers, who have become distinguished in the annals of the State and the Nation: Cyrus Edwards, a brother of Gov. Ninian Edwards. He was a candidate for governor of this State in 1838, in opposition to Gov. Carlin, who was elected, and who, in the felicitous language of John Reynolds, made a wise and prudent governor, and "retired to private life with the decided approbation of the people." Also John J. Hardin, who was popular in his manners, and bold and impetuous in his character. He enlisted in the Mexican war, was elected colonel of the 1st regiment of Illinois volunteers, and fell, gallantly fighting, at the battle of Buena Vista. Also D. M. Woodson, who has since been elected as Circuit judge, and occupied the bench a number of years. Also E. B. Webb, a man of great decision of character, eminent as a lawyer, and influential as a politician. Abraham Lincoln was also among the members who protested against the passage of the bill. And also Jos. Gillespie, who was judge of the Circuit Court of the Madison judicial circuit for some years, who has always taken a deep interest in political affairs, and who is the only surviving lawyer who signed

the protest. The five additional judges above named, were elected under the provisions of this act. As thus constituted, the Supreme Court continued to exist until it was dissolved by the Constitution of 1848.

It is not the only instance in the history of our country, where courts have been reorganized for the express purpose of securing some political advantage. As the courts of the United States and the Supreme Court of the State were held at Springfield about 1840, many of the prominent lawyers from various portions of the State were regular in their attendance. Among them were O. H. Browning, Archibald Williams, Thomas Drummond, Justin Butterfield, Cyrus Walker, J. Y. Scammon, John D. Caton, I. N. Arnold, Charles Ballance, William Thomas, Lyman Trumbull, Walter B. Scates, Joseph Gillespie, Gustavus Koerner, E. B. Washburne, and others, whose names are frequently seen in our earlier reports, and who acquired a wide reputation as sound and able lawyers.

Were it our privilege to discuss the merits of the living, as well as the virtues of the dead, it would be a pleasure to dwell upon reminiscences connected with their history. We could point to the munificent liberality of one; to the fine literary taste and varied accomplishments of another; to the extraordinary forensic eloquence of several; to the judicial honors worthily bestowed upon many, as well as to the profound learning and extensive legal attainments of all. But we forbear. Time is rapidly hurrying them onward, while the angel of history is patiently waiting to inscribe their honored names upon the roll of fame.

The State having been divided, in 1841, into nine judicial circuits, the territory embraced by each was of considerable extent. The Sangamon district included Woodford County on the north and Shelby County on the South, and extended as far east as Coles. The sessions of court were held twice in the year. As legal business at home during the long vacations was very inconsiderable, the lawyers were compelled to travel upon the circuit. In the spring, they generally went on horseback, on account of muddy roads and swollen streams. Bridges, in the unsettled portions of the counties, were scarce, and the sloughs

were frequently difficult to cross. The grass was so thickly matted together, and its roots so densely entwined, that the rains passed off very slowly. The roads generally ran through the middle of the prairies, and often there were stretches of twelve or fifteen miles without a house or any sign of improvement. I have traveled sometimes nearly all day without meeting a human being or passing a single farm. Almost everybody considered it his duty to exercise the rights of hospitality, and the latch-string generally hung out. On one occasion I rode from breakfast time until after dark, through prairies covered with water, after heavy rains. At length I stopped at a cabin and knocked for admittance, but receiving no answer, I opened the door, and saw, by the bright moonlight, chairs and beds arranged in perfect order, but no inmates. Being very hungry I searched for something to eat, and fortunately found some meat and corn-bread in nicely covered dishes. Of course I levied upon the provisions for supper; and took possession of one of the beds, where I slept comfortably and undisturbed until morning, when I went on my way rejoicing.

On another occasion, in 1838, I stopped at a cabin in Logan County, near the site where the magnificent institution for the feeble-minded, has recently been erected by the State. The woman complained very much because the population was becoming too dense. She said her family would be compelled to remove further west, where they would not be troubled by so many neighbors. In the morning, I discovered one house in sight, and no more, and in the direction of Springfield it was about eight miles to the nearest farm.

In the spring, to my young and ardent mind, the prairies were surpassingly beautiful. Covered with luxuriant grass, interspersed with flowers of every hue, which gracefully bent with every passing breeze, they possessed a charm that can never be forgotten.

> These are the gardens of the desert, these
> The unshorn fields, boundless and beautiful,
> And fresh as the young earth, ere man had sinned—
> The prairies—I behold them for the first,
> And my heart swells, while the dilated sight
> Takes in the encircling vastness. Lo! they stretch

In airy undulations far away,
As if the ocean in his gentlest swell
Stood still, with all his rounded billows fixed
And motionless forever.

The hotel accommodations at that early day were of the humblest kind. Sometimes we were fortunate enough to sleep on a bedstead, but frequently upon the floor. The rooms were generally crowded with jurors, witnesses, parties litigant, and others, who had come not merely to attend court, but to witness a horse-race, or a circus, or some theatrical performance, which were generally the side-shows of a Circuit Court in those primitive times. At the first session of the court held at Taylorville, in Christian County, the county-seat consisted of two houses, each containing one room. One was occupied by the court and the other as a saloon. The business was dispatched the first afternoon, and the judge and the bar rode ten miles in a drizzling rain to find shelter for the night.

When not engaged in business, lawyers spent their leisure hours in social conversation, singing songs, telling stories, and playing cards or practical jokes upon each other. Hon. William L. May, who had been a member of Congress, having some musical taste, carried his violin with him. Mr. Lincoln abounded in anecdotes, of which he seemed to possess an inexhaustible fund. No one could relate a story without reminding him of one of a similar character, and he generally capped the climax. His stories, though rude, were full of wit. He relished whatever had a nib to it, as he expressed it. He generally laughed as loudly as others at his own witticisms, and provoked laughter as much by the quizzical expression of his homely features, and the heartiness of his own enjoyment, as by the drollery of his anecdotes.

Mr. Lincoln was a slow thinker. It seemed as if every proposition submitted to his mind was subjected to the regular process of a syllogism, with its major proposition and its minor proposition and its conclusion. Whatever could not stand the test of sound reasoning he rejected. Though honest by instinctive impulse, he became still more so by the logical operation of his mind. He would not accept a fee in a bad cause. He would

not argue a case before a jury for the sake of argument, when he believed he was wrong. No man was stronger than he when on the right side, and no man weaker when on the opposite. A knowledge of this fact gave him additional strength before the court or a jury, when he chose to insist that he was right. He indulged in no rhetorical flourishes or mere sentimental ideas, but could illustrate a point by one of his inimitable stories, so as to carry conviction to the most common intellect. He used plain Saxon words, which imparted strength to his style, at the expense, it may be, of elegance, but which were understood and appreciated by the masses of the people. Dr. Leonard Bacon, of New Haven, whose learning and scholarship are well known, once told me that he considered the Cooper institute speech of Mr. Lincoln one of the purest specimens of composition in Saxon words to be found in the English language.

Mr. Lincoln's power of overwhelming an adversary by anecdote, or an illustration, was demonstrated on one occasion, when he was a member of the Legislature. A gentleman who had formerly been Attorney-General of the State was also a member. Presuming upon his age, experience, and former official position, he thought it was incumbent upon him to oppose Mr. Lincoln, who was then one of the acknowledged leaders of his party. He therefore took especial pains to reply to Mr. Lincoln's speeches, and was so persistent in his assaults that he became positively annoying and offensive. He at length attracted the attention of Mr. Lincoln, who replied to his remarks, and then told one of his humorous anecdotes, and made a personal application to his opponent, which placed him in such a ridiculous attitude, and which was so apropos, that it convulsed the whole house of representatives with laughter. All business was at once suspended. In vain the Speaker rapped with his gavel. In vain the door-keepers endeavored to preserve order. Members of all parties, without distinction, were involuntarily compelled to laugh. They not only laughed, but they screamed and yelled. They pounded upon their desks. They thumped upon the floor with their canes. They clapped their hands. They threw up their hats. They shouted and twisted themselves into all sorts

of contortions, until their sides ached and the tears coursed down their cheeks. The lobby was as badly infected as the House. It was a scene of indiscribable confusion. One paroxysm passed away, but it was speedily succeeded by another, and again they laughed, and screamed, and yelled. Another lull occurred, and still another paroxysm, until they seemed to be perfectly exhausted. It is needless to add that the ambition of Mr. Lincoln's opponent was abundantly gratified, and that for the remainder of the session he relapsed into a condition of profound obscurity.

One of Mr. Lincoln's most intimate friends, and a partner in the practice of law for some years, and one of the most successful lawyers of this State, was Stephen T. Logan, of Sangamon County. He came from Kentucky when thirty-two years of age, bringing with him a high reputation, and soon obtained a leading position at the Springfield bar, which was then and afterward, during his career, adorned by such distinguished lawyers as Baker, Stuart, Lincoln, Douglas, McDougal, Edwards, Hay, Palmer, McClernand, and others. In 1835 he was elected Circuit judge by the Legislature, and after serving in that capacity about two years, he resigned because of the inadequacy of the salary. He was elected several times to the Legislature, and always took a prominent part in debate. His opinions were received with deference, and he exercised an extraordinary influence by the integrity of his character and his fairness in discussions.

He was a member of the Constitutional Convention of 1848, and by his characteristic wisdom, prudence, and economy materially assisted in the adoption of some of the best provisions of that Constitution.

In 1848 he was nominated as the Whig candidate for Congress in his district, in opposition to Col. Thomas L. Harris, who had just returned from a brilliant career in Mexico, with his brow adorned with military laurels. Lincoln, Baker, and Logan then constituted a triumvirate, and were the three political leaders in their congressional district. Each was ambitious to serve his country at Washington City. It was understood that they would

be candidates in rotation. Baker had been elected, and was occupying his seat when the war with Mexico commenced. Lincoln succeeded him according to agreement. Logan, in his turn, became a candidate, but, being utterly destitute of those qualities which win the popular heart, and being opposed by a gallant soldier, who had achieved success upon the battle-field, he was signally defeated. He was too honest in the declaration of his principles to succeed in political life, and would never condescend to the arts and chicanery by which demagogues are accustomed to clamber into office.

He was appointed, by Governor Yates, one of the seven commissioners to represent the State in the celebrated Peace Convention, which met at Washington prior to Mr. Lincoln's inauguration. His efforts there were conservative in their character, and he pleaded powerfully for the preservation of peace. In one of his speeches he remarked:

"Instead of *dreaming* of news from the seat of war, and of marching armies, I have thought of a country through which armies have marched, leaving in their track the desolation of a desert; I have thought of harvests trampled down; of towns and villages, once the seat of happiness and prosperity, reduced to heaps of smoking ruins; of battle-fields red with blood, which has been shed by those who ought to have been brothers; of families broken up, or reduced to poverty; of widowed wives, of orphaned children, and all the other misfortunes which are inseparably connected with war. This is the picture which presents itself to my mind every day and every hour. It is a picture which we are doomed soon to witness in our country, unless we place a restraint upon our passions, forget our selfish interests, and do something to save our country."

In his professional career he stood preëminent. He possessed the rare faculty of perceiving almost intuitively the strong points of a case, and the remarkable power of making clear and distinct to a court or a jury, the perceptions which he himself entertained. Distinctions, which to others would possess no difference, were recognized by the extraordinary keenness of his intellect and magnified by the lucid character of his argument,

until courts and juries were convinced of the correctness of his views. He won many a triumph by the fairness of his statements and the logical precision of his speeches. He disdained the arts of sophistry and appealed generally to the understanding of his hearers, though there were occasions when he would indulge in the flowers of rhetoric and attempt to move a jury by an earnest and impassioned eloquence. He was universally recognized by the bench and the bar as the great *nisi prius* lawyer of the State, and clients, who were fortunate enough to secure his services considered it as a sure presage of victory.

He was small in stature and frail in constitution, but a piercing deep-set eye and a large cranial development, imparted a highly intellectual appearance to his almost infantile features. He died at the age of eighty, although I have heard him say, nearly forty years ago, that he did not expect to live beyond sixty years of age. He will long be remembered for his public services as a legislator, for his ability as a judge, and for his eminent success as a lawyer.

Allusion has already been made to Col. E. D. Baker. He was an ornament to the bar. Although somewhat abrupt in his manners, he was pleasing in his address; but the charms of his eloquence overbalanced every other consideration, and courts and crowds were alike captivated by his oratory. Possessed with a powerfully retentive memory, the acquisition of knowledge was an easy matter. He reveled amidst the fields of literature, as well as of law, and culled many a flower of rhetoric, which he scattered again with rich profusion. Before the Mexican war he delivered three lectures without notes upon the arts of Greece and Rome, before large and fashionable audiences, showing great research and remarkable tenacity of memory. He was a member of the last legislature that was held at Vandalia, and, as an evidence of his versatility of his tastes and habits, it is said that at one moment he would be playing at marbles with the boys, and the next he would be addressing the House of Representatives in strains of lofty eloquence. He was intensely ambitious. Arnold says a friend found him sitting on a fallen tree weeping bitterly. On being pressed to tell the cause of his

grief, he said: "I have been reading the Constitution of the United States, and I find a provision in it that none but native-born citizens can be President. I am an Englishman by birth, and therefore can not be elected." I have only to say that Baker himself always denied this charge. He said he was not sitting upon a fallen tree on that occasion, but upon an old stump. Not only the refined and the intellectual listened with pleasure to the easy flow and the musical cadance of his language; not only did courts and juries wonder at the extent of his legal knowledge considering the carelessness of his habits; not only were representatives and senators carried away by his eloquent strains, but the masses of the people recognized his ability and received him with apturous applause whenever he was pleased to address them. He was greedy of popular favor. I remember his electioneering-coat It was rather small for his well-made and graceful figure. The flaps were widely separated from each other. The inexpensive garment hung awry upon him, and looked like an old dilapidated flag at half-mast. But he performed wonderful feats in his affected dress, and swayed the multitude at his pleasure by the magic power of his eloquence. He was bold as a lion. In those early days, when politics ran high, he was sometimes surrounded by danger, but no threats could intimidate him; no peril could make him quail. He became representative in the Legislature of 1837, and Senator in 1840. He was elected to Congress in 1844, and at the commencement of the Mexican war he left his seat, raised the 4th Illinois regiment, and united with the army. When the gallant Shields fell wounded at the battle of Cerro Gordo, Baker instantly took command of the brigade, charged magnificently upon the enemies' guns, and helped to complete the utter route of the Mexican army.

In 1852 he went to California. There he became popular, notwithstanding his politics. The enthusiastic impulses of his genius corresponded with the fiery energies of the population. He applied himself assiduously to the practice of his profession and took a conspicuous position in the first rank of the members of the bar. At the funeral of Broderick he delivered one of the most magnificent orations that ever adorned the English lan-

guage. For an hour or more the homage of tears was paid to Baker's genius and Broderick's memory by the vast multitude which had assembled to pay the tribute of their love and affection. The closing words of this wonderful eulogy are remarkable for their touching pathos.

Said he: "The last word must be spoken, and the imperious mandate of death must be fulfilled. Thus, O brave heart! we lay thee to thy rest. Thus, surrounded by ten of thousands, we leave thee to the equal grave. As in life no other voice among us so rang its trumpet-blast upon the ear of freeman, so in death its echoes will reverberate amidst our mountains and our valleys until truth and valor cease to appeal to the human heart. Good friend! true hero! hail and farewell!"

After the death of Broderick, Baker went to Oregon and entered with great zeal into the canvass of 1859, and was elected by the Legislature, Senator in Congress from that State. He had now arrived at the summit of his political ambition. By the urbanity of his manners; by the elegance of his style; by his readiness in debate, he took a leading position in the deliberations of the Senate, and exerted all his energies, and all the powers of his eloquence, in the support of Lincoln's administration. But the ardent impulses of his nature, and his thirst for military glory led him instinctively toward the battle-field. The last time I saw him was at the eastern portico of the capitol at Washington. Solitary and alone, he was leaning against one of the pillars absorbed in deep reflection. What were his thoughts and what the promptings of his fierce ambition were only known to him and his Maker. A few minutes after he was mounted upon his charger, at the head of his California regiment, marching through Pennsylvania Avenue, amidst all the pomp and circumstance of war, and amidst the thousands that had assembled to witness the grand but mournful display. His military career was brief and sad. In October, 1861, he fell at Ball's Bluff helplessly contending against a concealed and superior foe, a willing sacrifice upon the altar of his adopted country. In his own language we may well exclaim: "Good friend! true hero! hail and farewell!"

But time would fail me on this occasion to refer in detail to

many others who are entitled to honorable mention as members of the early bench and bar of Central Illinois.

We can occupy your attention only for a moment with reference to Stephen A. Douglas, who was also a member of the Springfield bar, and who won the soubriquet of the "little giant" forty years ago. The language of eulogy has been exhausted by his admiring friends. No man ever had more enthusiastic adherents. As a young man he was extremely affable in his manners, and endeavored to make himself agreeable, in his private intercourse, to men of all parties. Ambitious of distinction, he assiduously endeavored to ingratiate himself with the masses of the people, and by his deferential manners, as well as by his extraordinary talent, he succeeded in winning the popular favor. He took advantage of every opportunity to advance his political prospects. He became the idol of his party, and was rapidly elevated from one political position to another, until he became a distinguished member of the United States Senate, and a prominent candidate for Presidential honors. The great debate between him and Lincoln will long be remembered, and history will record this grand intellectual contest as one of the most extraordinary that was ever witnessed in any age or any country.

Lincoln and Douglas were the honored chiefs of their respective parties, and are the grandest characters, intellectually and politically, which have graced the annals of our State. In many respects they were preëminent among our most distinguished lawyers and statesmen. As their destinies were associated in their early manhood, and intertwined with each other in their maturer years, so their memories, indissolubly united, will be embalmed together in the pages of history with those of the most remarkable men of our nation.

The remains of one repose upon the shores of your lake, whose dashing waves will forever sound his praises and sing a requiem for his departed spirit; while those of the other slumber beneath a magnificent monument, whose lofty column will for many ages awaken the recollection of his numerous virtues and his illustrious career.

Illinois has reason to be proud of her statesmen, her judges, and her lawyers.

Photo-Mechanical Printing Co., Chicago.

ON Thursday evening, February 10th, 1881, Hon. Thomas Hoyne, of Chicago, delivered the third lecture of the course in Fairbank Hall.

The President of the Association, Edward G. Mason, Esq., presided on the occasion, and introduced the lecturer as follows:

Ladies and gentlemen:—You will be addressed this evening upon the subject of "The Lawyer as a Pioneer," by one who was himself one of the pioneers of our bar, and one of the first among our lawyers. I have the pleasure of introducing to you the Honorable Thomas Hoyne.

THE LAWYER AS A PIONEER.

BY HON. THOMAS HOYNE.

THIS WAS THE LANGUAGE OF A TOAST PREPARED TO BE OFFERED AT THE LAST ANNUAL DINNER, IN SARATOGA, OF THE AMERICAN BAR ASSOCIATION.

IT suggested the subject of my lecture. The part performed by the profession, and the influence it has exerted upon the infant settlements of the West; the part it has performed in framing the laws and founding institutions, their development and the progress of western culture and art, are all very appropriate subjects of discussion before associations like this!

The legal profession, or the profession of the Jurisconsult, has, in all times, performed a most important part in the government of mankind. It is unnecessary to repeat the statement of writers, with respect to the Greeks and Romans, that the profession of advocacy comprehended the whole public business of the State, in war and peace—military as well as civil. The general in the field one day, not unfrequently expected to appear in the forum on the next, pleading some cause—prosecuting or defending some public criminal!

In all countries and in every age where human thought has been free to express itself, and in which the profession has been recognized, it has universally been found to have promoted the utmost freedom of opinion, while leading up to and establishing the fundamental axioms of liberty that now lie at the foundation of all popular forms of government.

The value of the profession in respect to human liberty and the protection of society under the forms of law, were never

more remarkably illustrated than by the Terrorists of the French Revolution, when that tribunal of assassins, called the Revolutionary Tribunal, sent hundreds of innocent victims, men and women, daily to the Guillotine. They first procured a decree of the National Convention, that the Order of Advocates should be abolished, and that no advocate should be heard before them in defence of those who were condemned without trial. Does any one doubt that if the Order that had been known in France as the "*Noblesse de la Robe*," had been free, during those days of terror, to appear before those fanatics of blood, even these desperate men could not have carried on for months their work of cruelty and slaughter? In fact, it may be demonstrated as impossible, taking history as our guide, that despotism and cruelty can live in the same atmosphere with a free legal profession. Such freedom, as is well known, has been suppressed in Russia. At first Napoleon abolished it in France, but he at last found it for his interest to restore it.

But in England, the profession, as we know, has entered into every change through which that government has been passing for nearly five centuries, or it may be said, since the time Thomas More fell a victim to the low cunning of Rich and the ambition of Henry VIII.

During every struggle which has resulted in curbing prerogative and privilege, nothwithstanding the servility of the times, the champions of right have come from the bar and bench. They were found among the Hales, Cokes, Erskines, and Mansfields of the English bar. After centuries of progress the science of Jurisprudence has so modified the spirit and forms of the British government, that the body of the Common Law is to-day the most reliable guarantee of representative government in Britain and America, and the very highest security for the liberties of the people.

In our own country, the lawyer occupies, if he will, the most exalted position of trust as an officer of the courts. And it may be said, that in all his relations to the laws, the legislative and coördinate branches of government in every State, that taking the same number of men, there is no other profession in our

country which exercises so great an influence, or controls to the same extent the welfare and destiny of the United States, or the happiness of the people.

In view of all this, considering the extent of their influence, is there any body, of equal numbers, more exemplary in private morals, and in all respects so faithful to every obligation and duty of the citizen, or animated by higher motives of patriotism and duty?

A French writer, speaking of lawyers in relation to the great trusts they assume, says: "Let us imagine some brilliant and eminent lawyer, distinguished also by want of principle—great intelligence united to a depraved soul! We may then go further and suggest, that, while ordinary criminals attack their victims at some risk of punishment and discovery, involving moral courage as well as turpitude—the base wretch, who, under cover of a robe which his profession sanctifies, betrays his calling to do a wrong—slays, like the *poisoner*, in the dark, ruining his victims beside the altar and the hearth, making society an unwilling accomplice."

Lord Campbell turns away in disgust from the shame he feels in touching the infamous life of Lord Chancellor Rich, whose servile and base nature, whose cunning and perjury sent Thomas More to the block, at the instant his acquital was assured. That man (as Macauley says of Bacon), the *glory and shame* of the profession, might have saved the life of his greatest benefactor and friend, the gallant Essex;—instead of which he lent himself to the murder of his reputation as well as his life.

When we come to the lawyer, as a pioneer in the Northwest, we find a grateful field, in which to gather honors for our profession. Here the lawyers appear as the heralds (pilgrim fathers) of that civilization in the wilderness, leading those advancing multitudes, which, as Bryant said, "were soon to fill those populous deserts."

The State of Illinois owes to the legal profession a debt of gratitude, which only the absence of authentic written history has prevented all classes of the population from acknowledging. The judges and lawyers of this State, from the organization of Illinois Territory under a separate government, in 1809, have

not only framed her codes of jurisprudence and laws, but their intellectual activity has led in every enterprise from the beginning, which developed her resources, founded her institutions, whether of an educational, political, or judicial nature, and, it may also be said, protected religion and enforced all the axioms of its morality. The high rank which Illinois has recently taken among her sister States of the Union, under the Constitution of 1870, and the policy which has prevailed in extinguishing the State indebtedness, are so noteworthy as the work of the eminent lawyers of the State—that they are of themselves a testimony of no ordinary kind—to their wisdom and patriotism.

Illinois has much unwritten history. And here let us return thanks to such lawyers as Brown, Reynolds, Ford, Breese, and Edwards, who have all left us rich materials;—while, considering the amount to be written, we must admit that the historian of Illinois is yet to come.

The late Judge Henry Brown, in his History of Illinois, published in 1844, at New York—while he was residing in Chicago, in the practice of his profession—in his preface to the work, says, in respect to this State, "The Spaniards once claimed it; the French once occupied it; the English once conquered it; and finally, the Americans held it by right of conquest. Thus, he says, the Gaul, the Saxon, and the savage—the Protestant, the Jesuit, and the Pagan—for more than a century have struggled for mastery."

The late Judge Breese has left a manuscript address (in the writer's possession) which was delivered by him before the General Assembly of this State in 1842, in which he divides the history of the State into three distinct epochs, each having its own peculiar and marked characteristics. The first period embraces *ninety years*, and takes in the period of discovery by the French in 1673, and its dominion by them until its cession to Great Britain in 1763, to which period the address confines itself.

This address should be published. Although it goes over some of the same subjects embraced by Mr. Parkman in his four volumes of "New France in the West and the Discoveries

made by the French," yet it is more interesting to us, because Breese follows that ninety years of French rule at Kaskaskia, where the deputy of the French Government lived. He gives us details of habits, manners, occupations, and illustrates the intellectual character of the Illinois French, the first inhabitants of our territory who planted the first Christian church, and introduced the habits of a civilized community.

Judge Breese, in a highly picturesque style, leads us into all the details of that early French life. He draws a picture of the piety and self-sacrifice which the humble pastors, with their small flocks of parishoners, made year after year, while endeavoring to convert the Indian tribes to their own faith in God.

Speaking of white settlers, Mrs. Kinzie relates in her work, "Wau-bun," that the Indians, giving an account of Chicago, always said that the first white man who ever settled in Chicago was a negro! As a matter of fact, in 1796, Jean Baptiste Au Sable, a native of St. Domingo, did settle in Chicago, and died among the Indians some years after, near Peoria.

But the discovery of the Mississippi River in the year 1673, by the humble missionary Marquette, is a principal theme of Judge Breese in this history.

The Judge follows the missionary from the home of the order to which he belonged in France, and gives a most glowing account of the rise of the Jesuit order and the work it had accomplished in all climes and in all the countries of the habitable globe. Marquette, inspired by the single motive of redeeming the savage and seeking him in the hope to save him to Christianity, embarked at Mackinaw. In the year 1673, he reached Green Bay and the Fox River, and crossed to the Wisconsin, finding his way down to the great river, as the Mississippi was then called. He returned to Point St. Ignace, at St. Mary's, and in the fall of the next year, 1674, he started again, coming up Lake Michigan. During a storm his small canoe run up the Chicago River. Here he was detained by sickness until the following March, 1675, when he was able to resume his voyage to visit the mission of St. Louis which he had established at Peoria.

Parkman, as well as Breese, say, that in that memorable winter of the years 1674 and 1675, Chicago was visited by, probably, the first human being of European origin, having any knowledge of Christianity or civilization. And it is a fact, also, well attested, that, in the same year Marquette left Chicago, he returned up the Illinois River *from Peoria*, reaching Lake Michigan, he crossed its waters, and, upon the opposite side of the Lake, entered the small stream in Michigan bearing his name—went apart from his companions—knelt in prayer alone—and died. His companions buried his remains—erecting over them a cross, and left them alone with that only monument—in the solitude which his presence had consecrated.

Breese, speaking of Marquette's discovery of the Mississippi, says: "It is strange that this meek and humble missionary—the good old Father Marquette,—should be the first who made such a voyage upon the majestic and great river. That his slender bark should be the first to float upon the current, and its light paddle the first to break its ripple; for at that period a settlement of men of our own lineage had existed in Virginia sixty-six years, in New York about fifty years, and in New England more than forty years."

"Is it not then remarkable that its existence should have been unknown to all these colonists? that the natives of those several and distant regions, should have had no legend connected with it—no tradition or other story of a far-off and mighty river running to the south—and what had become of the relations made by DeSoto's companions—now admitted to be true?

"Yet it seems that no such story was generally current among the people, and to Marquette is ascribed the glory and renown of communicating the fact to the world, thus adding another to the many trophies acquired by members of his order in all parts of the globe."

Mr. Joseph N. Balestier, formerly of Chicago—now residing in Brattleboro, Vermont, of which he is a native—in 1840, speaking of the French missionaries in Illinois, said that, "while the Puritan gave to New England her worship and her schools, the priests of France gave the West their altars, their hospitals, and

their seminaries. Neither should it ever be overlooked, that the French left their country from motives of religious zeal alone, while the Pilgrim Fathers were driven by persecution from theirs. And much," he says, "as we must admire their sublime energy, the palm belongs to the dauntless sons of France."

With this only glance at the first settlement of Illinois, and the lawyers as historians, let us trace them down the current of our State history, until we arrive at Chicago.

Governor Ford, in his History of Illinois, begins with the year 1818, at the time when Illinois framed her first Constitution, and was admitted as a State into the American Union.

Soon after the peace of Paris, in 1763, the British Government took possession of Illinois as a part of what was French territory. This included Fort Chartres, Kaskaskia, Cahokia, and Vincennes. Many of the French settlers then left and settled in Louisiana, the territory still retained by France, and purchased in 1804 by the United States.

A change was soon to take place in the relations between Great Britain and her American colonists, which was destined to have far-reaching effects upon the French community; and, in 1776, the Declaration of American Independence finally settled the jurisdiction and government which was to extend over the future settlement of questions affecting these inhabitants.

But it was not until 1778, two years after the American revolution began, that George Rogers Clarke and the troops placed under his command, under the authority of the Virginia State government, marched from Kentucky into Illinois, and obtained peaceable possession of Fort Chartres and Cahokia. The French gladly changed jurisdiction, and consented to defend the new government which offered to protect them. They aided Col. Clarke in securing a friendly alliance with the Indians, and their good French pastor interposed his kindly offices and influence with the French at Vincennes, and the whole Northwestern territory, with Detroit excepted, yielded itself up to the jurisdiction and government of the Commonwealth of Virginia.

At the first council he held with the Indians, Clarke said to them: "Your old father, the king of the French, has come to

life again. He was mad at them for fighting with the British, and if they did not want the land to be bloody with war, they must be at peace with the Americans."

The justly celebrated Patrick Henry, the orator of the Revolution, was then governor of Virginia. As soon as Clarke had made his conquest as a military commander, Governor Henry selected a lawyer, John Todd, and commissioned him as a *civil commandant*, to take charge of the civil and political affairs of that far-off region. Illinois was organized, placed under American jurisdiction, and the Republican flag for the first time displayed to the Indians and French in these quarters.

The whole territory was organized under Col. Commandant Todd, as a county of Virginia—known for some years, until 1787, as the "County of Illinois, in the State of Virginia, west of the Ohio River." It was the largest county ever created for such a jurisdictional part of state government. It exceeded in dimensions the whole of Ireland, Scotland, England, and Wales—and over all this, one lawyer had entire charge of its civil and military affairs—while, as a county of Virginia, the governor ruled over State and county.

Virginia, in 1784, some six years afterward, made a cession of her Northwest Territory to the United States; and in 1787, the greatly-famed ordinance for the government of the Northwest, was framed, and a territorial government put into operation. This ordinance, as is well understood by lawyers, constituted the great organic law of the five States of Illinois, Ohio, Indiana, Michigan, and Wisconsin.

In 1800, what was known as the Indiana Territory, was carved out as a separate territory, which included also Illinois, and the capital of this territory was located at Vincennes, Indiana.

But at length, in 1809, Congress created Illinois into a separate territorial government, and located her capital at Kaskaskia, which also became afterward the first capital of the State.

As the first governor of the new territory, President Madison appointed a distinguished lawyer—Ninian W. Edwards—then the chief-justice of Kentucky, to that office. Another distinguished lawyer—the late Judge Nathaniel Pope, to whom reference

will be made hereafter—was appointed the first secretary of the territory.

Governor Edwards was a native of Maryland—had been educated with the celebrated William Wirt—and partially, under his tuition, but at the age of twenty-three, was admitted to practise at the bar of Kentucky. He was contemporary with Henry Clay, Felix Grundy, Hamilton Rowan, Chancellor Bibb, and other eminent men of that day. He rose rapidly from one judgeship to another, until he became chief-justice of that State, and appointed by Madison, as already stated, to be governor of the new territory of Illinois.

Governor Ford says: "He was a large, well-made man, of princely appearance, which was a circumstance greatly in his favor, as a governor of a rude people, of whom it may be said, that the animal greatly predominated over the intellectual man. He showed an extensive knowledge of public affairs, and became distinguished as a man of fine talents throughout the Union."

The Governor says, "that he never condescended to the common low arts of electioneering. Whenever he went out among the people, he arrayed himself in the style of a gentleman of the olden times, dressed in fine broadcloth, with short breeches, long stockings, and high fair-topped boots; was drawn in a fine carriage, and driven by a negro in livery. For success, he relied upon his speeches, delivered with great pomp, and in a diffuse and florid eloquence."

In 1826, when Mr. Edwards was elected governor of this State, he appeared at his inauguration, before the two houses of the General Assembly, with a "*gold-laced cloak*, and delivered to them his first message, with great pomp and dignity."

In the same year that Illinois was admitted into the Union, a young man of some twenty-one years of age, came into the State, a stranger, and settled at the old French town of Kaskaskia, then and for a long time the first capital of the State government. He was a man recognized, always, as distinguished for great capacity in affairs, as he was for his profound learning and scholarship—and, was it also fortuitous or providential, that he was destined to become identified with the history of the

public service for sixty long years of unbroken energy and health? Less of an orator than a judge and a statesman, he moved among the great men in the State. He was seen and felt in every movement and work, and every work that developed the natural resources of the State manifested his wisdom. He cultivated among the people an intellectual standard of taste. He planted, with others, every foundation of educational enterprise through which the culture of the people was raised, and the ultimate prosperity of the State assured.

Hon. Sidney Breese landed in Cario, in the year 1818. He located at Kaskaskia. He occupied the same office with Elias K. Kane. He dedicated the first book ever printed in this State —Breese's Reports—to his friend and patron, Mr. Kane. He was United States attorney in 1824. He represented the people in the General Assembly at various times. He was made a judge, and presided in a Circuit Court, at Chicago, in 1835. He was made a United States Senator in 1842; and when he died, in 1878, he had served in the judicial office some thirty-five years, and, at the time of his death, he had been twenty-five years of his life an associate-justice of the Supreme Court, and three times a chief-justice of the State. He was a distinguished statesman, ever mindful of the material interests of the people, and devoted to public improvements. He made the first report in Congress, in favor of the great Pacific Railroad; and to him the citizens of Chicago are greatly indebted for his wise foresight and progressive measures. There were other giants in the land in those days.

Judge Nathaniel Pope, first Secretary of the Territory, is identified with, perhaps, one of the most important measures ever adopted as an act of successful statesmanship! To him we owe the fact that Chicago is now the great City of Illinois, instead of a part of Wisconsin.

Judge Pope, as I have said, was first Secretary of Illinois Territory in 1818, and as such received the petition from the inhabitants to enter the Union as a State. By the Ordinance of 1787, it will be remembered that it was provided in the fifth article, that there should be formed in the said territory not less than *three* nor

more than *five* States, and the Ordinance defines the boundaries of the three States of Illinois, Ohio, and Indiana. But there is a proviso which declares that if Congress at any time shall find it expedient, "they may form one or two States in that part of said territory which lies north of an *east and west line drawn through the southerly bend of Lake Michigan.*"

It became evident to Judge Pope, that, as Wisconsin was to be erected north of that line, Illinois would be excluded from any port on Lake Michigan, and the port of Chicago being north of the line, Chicago would be in Wisconsin, and the Illinois and Michigan Canal (which then had become a near certainty) would be partly in and partly outside the State of Illinois, unless the line of the latter State could be extended further north. He at once consulted with senators and representatives, and induced them to agree to *the ordinance* which he had drawn for the admission of the State into the Union, with a new northern boundary line, which he located at 42° 30′ north latitude, the present northern line of our State.

Could he, or could others, have looked into the future, even twenty-five years, there might have been many objectors found, as there have been since, but no prescience could have supposed that in sixty years the part of Illinois included by that change of boundary, would have given her the fourth largest city of the Union, and that in the fifteen counties, organized out of the territory, then taken from Wisconsin, there would be a majority of the population of this State, by the census of 1880, while three-fourths or four-fifths of all the wealth of the State would be found north of the southern bend of Lake Michigan.

In other respects also, Judge Pope showed the forecast of a truly great statesman. He obtained for Illinois a three per cent fund set apart, arising out of the sales of all United States public land within the State. Daniel P. Cook, afterward our representative in Congress obtained a grant of the canal land, some 300,000 acres, to aid the State in constructing the Illinois and Michigan Canal. Judge Pope, however, laid the foundation for those large educational grants which gave the State every thirty-sixth section in every township of the State, for school purposes, which

Governor Ford estimated at one million of acres, and which the governor said, "If kept, would be worth *twenty millions of dollars.*" Gov. Ford greatly underestimated the future value of this property. The *single section reserved* in town thirty-nine, now the *School-Section Addition to Chicago*, is alone worth more than the twenty millions at which he estimated the value of the whole. But in 1837 and 1838, the amount the school-fund realized from the sales of this section, known as the school-land, did not exceed fifty thousand dollars. This was loaned out at interest.

The organization and support of schools, however, was, with Judge Pope and the men of that day, one of the primal objects secured to the State, through their efforts, for posterity. The people of this generation owe them the acknowledgment of that service. It is not certain, even, whether had this one million acres set aside for schools, been reserved from sale until now, that the schools would have been more prosperous, or the people have been less taxed.

In the first State administration of 1818–19, there were lawyers of high rank, and some of the best men whom history will place among her benefactors, as founders of the State. Elias K. Kane was the first Secretary of State. His name has been given to Kane County. There was Daniel P. Cook, the first Attorney-General of the State, who advocated our canal grant in Congress. His name is perpetuated in the name of Cook County. John Thomas was the first State Treasurer, and Governor Edwards and Jesse B. Thomas were elected our first U.S. Senators. The most noted exceptions of those, not lawyers, in the administration, were Shadrach Bond, the governor, and Pierre Menard, the lieutenant-governor. Menard was a Frenchman, and an old settler, but he had not been naturalized as a citizen of the United States until two years before the Constitution took effect. Now, the Constitution required that the lieutenant-governor as well as governor should have resided in and been citizens of the State for thirty years, but the Convention kindly provided in a schedule to the Constitution, that any citizen who had been *two years* a citizen, and resided in the State, as long as Pierre Menard, might be lieutenant-governor.

The first Supreme Court of the State was organized by Chief-Justice Phillips, and Justices Thomas C. Browne, John Reynolds, and William P. Foster.

Governor Ford says that Foster was a *great rascal and no lawyer*. The governor seems to have supposed, with Lord Coke, that he never knew a great rascal who was a good lawyer. But it turned out, in this case, that Foster never had been a lawyer.

> "He was the mildest-mannered man
> That ever scuttled ship or cut a throat,
> With such true breeding of a gentleman,
> That you could ne'er divine his real thought."

But, although he had a circuit on the Wabash, for fear of exposing his utter incompetency, he never went near it, never held a court in the State, pocketed his salary for a year, and became a noted swindler.

In 1824, the judges of the Supreme Court were instructed to prepare a code of laws, and report at a subsequent session, and in 1827, the first *revised code of Illinois statutes* was passed and printed. The first revised code was framed and drawn up by Judges Lockwood and Smith, and it received the general approval of the bar. Some chapters of that code have borne the test of time, and been standard laws, retaining their place in all subsequent revisions.

There was one act of that code, which, by adopting the common law of England, down to the fourth year of James I., saved the people from the endless legislation of perennial code-makers, who, in so many other states have increased litigation and lowered the standard of authority and learning. Their entire ignorance of what the common law is, has been often the *stimulus* to their zeal in providing for cases which the common law had long anticipated, and judges had settled in repeated cases.

The judiciary was reorganized at the session of 1824–5. The Legislature made provision for five additional judges to perform circuit duties, which, under the first organization, were performed by the four supreme-court judges. But in 1826–7, the circuit judges were deprived of their offices by a repeal of the law appointing them, and again the supreme-court justices were bound to discharge circuit-court duties.

This was on account of the extravagant cost of the judicial system. And when you hear that the judges of the supreme court had a salary of $800 each, and the circuit judges $600 per annum, you will perhaps think the present judges overpaid. It seems that a certain demagogue thought *$6200* extravagant for *five judges of the circuits* and *four judges* of the supreme court—a sum which any one judge in Cook County could pay at this day and have a surplus sufficient to pay another supreme-court judge $800 out of his own salary.

In 1830–31, Cook County was made a part of the fifth judicial circuit, which included fifteen counties, north of Springfield; and Richard M. Young, afterward a United-States Senator from this State, was the first circuit judge elected by the General Assembly. Two terms of the Circuit Court were provided for in each county, and in this, Cook County, the Courts were to be held on the 4th Monday of April, and the second of September. The County of Cook was first organized in *1831*, by the late Col. Richard Jones Hamilton. He had been appointed by Governor Reynolds, and came with commissions for all the officers, which one person could legally hold, and he continued to hold and faithfully discharge them for many years. He was the first circuit-court clerk, clerk of the county-commissioners' court, recorder of deeds, under the Recorder's Act of 1827, probate judge, school commissioner, and a notary public. Thus, it will appear, he was full of honors and of offices. He was of Kentucky origin, and an old settler of the State. He was of a generous and open nature, a good citizen, a kind man, and one of those men who were then shaping the future destiny of the State. It may be well imagined, that, although holding so many offices, he, of himself, could not perform all the duties.

Henry Moore, a young lawyer from Concord, Massachusetts, was the first deputy clerk of Col. Hamilton. In 1835, Mr. Moore's business required so much of his attention, that he was obliged to resign his position as deputy, and Jonathan Young Scammon, then a young lawyer from the State of Maine, who had recently arrived in Chicago, was appointed to succeed him. Mr. Scammon's business increased so fast that he was obliged to avail

himself of the assistance of George Manierre, (the late Judge Manierre), who was then a law-student in his office, and having confided the care of the clerk's office to him, on the resignation of Mr. Scammon, in 1837, Colonel Hamilton appointed Mr. Manierre to succeed him as deputy. The law business of Mr. Manierre, in 1838 or '39, had so increased that he, in turn, sent in his resignation.

The first term of the circuit court held in Cook County was in September, 1833, by Hon. Richard M. Young. In 1834, he also held the term in May, in an unfinished frame or wood tavern, known as the Mansion House, upon Lake Street, opposite the present Tremont House. The late Sidney Breese held a term here in the spring of 1835, the first year of his judgeship; and the late Stephen T. Logan came here and held a term in the fall of that year. It will be understood that the circuit-riding of that day was done on horseback, or by the modest stage or wagon driven over unimproved roads, across swollen streams without bridges, and that the judges all came from, or resided in, the southern part of the State. They frequently exchanged circuits if they did not swap horses in crossing streams! So far as Judge Breese is concerned, it is easy to suppose that he wanted to visit a location which, commanding the great water highways, to be connected by a canal at Chicago, would ultimately bring to its doors the commerce of the two Gulfs—Mexico and the St. Lawrence—and finally make it the greatest commercial metropolis of the American continent!

That distinguished writer, Mr. Maine, in his work on Ancient Law, says: "That instead of civilization expanding codes of law, the law has limited civilization." I think if the writer could have taken the revised code of 1827, and laid it alongside of the code of laws which had been passed in the territory of the Northwest during its territorial condition, under the celebrated ordinance of 1787, he would admit that civilization was expanding codes, and that the *last codes* were expanding, instead of limiting, civilization.

By way of instructive comparison, and to show the advance Illinois had made in her legislation and on the revised statutes of

1827, I will detain you a moment with a brief reference to a few laws contained in the statutes of 1791 and 1800, passed by the government of the Northwest Territory under the celebrated Ordinance of 1787.

It seems that General St. Clair, of revolutionary fame, with James M. Varnum and Samuel H. Parsons, had been appointed the governor and judges of the territory, in 1789–90. They were authorized to adopt such laws of the original States, civil and criminal, as might be necessary and best suited to the circumstances of the district. In the library of the late Judge Breese I picked up some original volumes of these laws, as published in Philadelphia in 1791, to which I am indebted for what is here stated of their contents, and the definition of crimes.

1. LARCENY. We have larceny defined here and made punishable by thirty-one stripes, well laid on the bare back, and the thief required to restore the value of the thing stolen. But where he had not the means to pay the mulct or damage, he was to be sold by the sheriff to any person who would pay it. But there was no imprisonment in jail or penitentiary provided. He was sold to labor to the man buying him, for any term not exceeding seven years, or any person who would undertake to discharge the fine.

2. FORGERY. Besides being subject to a judgment of fine in double the value of the sum for which the offender attempted to defraud another, he was punished by being set in the pillory for three hours.

3. ARSON was punished by death.

4. HOG STEALING was made a special offence, subject to a fine of not less than $50 nor more than $100, and the offender was to receive on his or her bare back any number of lashes not exceeding thirty-nine, nor less than twenty-five.

5. HORSES were apparently singled out from all other personal goods and chattels, and protected by a law which made stealing that animal a crime punishable with death! And, further, any person who was convicted of altering any brand or mark of any other person's horse or horses was to be punished by fine, and forty lashes on his or her bare back, well laid on.

In case of a second offence, the offender, in addition, should stand in the pillory two hours, and be branded on the left arm, with a red-hot iron, with the letter T.

And every person who was a witness, and who saw any of these offences committed, and failed to discover or complain of the person committing them, was subject to fine, and because, as this law declares, it is difficult to convict any person who had seen such crime committed, if he chose to deny the same, therefore a new rule of evidence is introduced to meet the case. And the law declares, "it shall be sufficient proof that any person has committed the offence of having been a witness and failed to reveal it, or '*tell of it*,' if it should be proved that he ever told any other person that he had seen any person commit such an offence."

Again, any person receiving a "stolen horse, knowing the same to have been stolen," was declared to be guilty as principal, and in that case was, upon conviction, to also suffer the pains of death!!

In contrast with this, we find mayhem, or mutilation of a human being, only punishable by *imprisonment* in a jail for not less than one month, nor more than six months, and by fine not exceeding $1000. In case of non-payment, the offender could be sold, as in other cases.

BIGAMY was punishable by whipping on his or her bare back, not less than 100 nor more than 300 stripes, well laid on.

The morals of the people were secured against obscene conversation and profane swearing, by a law without a penalty or sanction. It is a curious piece of legal literature; the language is here given as an example of how a moral lecture, spread out upon the statute books, and, enacted as a law, was intended to correct the manners of the early inhabitants of this Territory:

"Whereas, idle, vain, and obscene conversation, profane cursing and swearing, and more especially the irreverently mentioning, calling upon, or invoking the sacred and supreme being, by any of the divine characters in which he hath graciously condescended to reveal His infinitely beneficent purposes to mankind, are repugnant to every moral sentiment, subversive of

every civil obligation, inconsistent with the ornaments of polished life, and abhorrent to the principles of the most benevolent religion.

"It is, therefore, expected, if crimes of this kind should exist, they will not find encouragement, countenance, or approbation in this Territory. It is strictly enjoined upon all officers and ministers of justice, upon parents and others, heads of families, and upon others of every description, that they abstain from practices so vile and irrational, and that by example and precept, to the utmost of their power, they prevent the necessity of adopting and publishing laws, with penalties upon this head. And it is hereby declared that government will consider as unworthy its confidence those who may obstinately violate these injunctions."

CHICAGO, 1837–40.

Chicago was first organized as the town of Chicago, under an act of the Legislature passed in 1835, under which the government of the village was vested in five town trustees. The first act of incorporation under which it was organized as a city, was passed on the fourth day of March, 1837, and on May second, thereafter, the first election was held, and the Hon. William B. Ogden elected mayor, with ten aldermen, who were to constitute the common council. The City was divided into six wards, and after 1839, they were entitled to two aldermen from each ward. But until this time, the third and fifth wards were entitled to only one alderman each. The mayor and aldermen were to be annually elected, after the first election, in 1837, in March, and aldermen and officers elected or appointed held their offices for one year. Immediately after the annual election, every year the common council appointed, by ballot, a city clerk, city attorney, police constables, and other city officers, who, like the mayor, held their offices for a single year.

The first clerk ever elected, upon the organization of the common council, was our honored friend, Isaac N. Arnold. He resigned before his term expired, the duties of the office encroaching too much upon the regular practice of his profession.

The late Buckner S. Morris was elected mayor, at the second election, in 1838, and Benjamin W. Raymond in 1839.

In 1840, the late Alexander Loyd was elected the fourth mayor, and Thomas Hoyne was appointed the city clerk. All the records and papers were then contained in a single ordinary pine desk, in the council-room, on the lower floor of the City Hotel, just opposite the classic pine-columned court-house, where the Sherman House now stands, on the northwest corner of Randolph and Clark Streets. The total of entire City revenue from all taxes was $7000 per annum, which the clerk generally collected in that office. The City had then a debt of about $60,000. The clerk paid all claims against the City, which were audited by the council, in script. This was a form of check on the treasury, redeemable in payment of taxes, and subject to a discount of twenty-five per cent in trade or exchange.

During the two years Mr. Hoyne was city clerk, 1840–41, the commercial statistics of the City, for all the preceding years, were compiled in a memorial to Congress, signed by Mayor F. C. Sherman and all the aldermen, asking for harbor appropriations. The total value of all exports in 1841 was $342,000; total value of all imports, $1,500,000. The names of twenty-eight or thirty business firms were given—being the entire total of those merchants then in any mercantile business in the City—and the population was estimated at 4400. It is needless to add, that in making a manifest show of rapid growth for three years, since the City had been organized in 1837, that eloquence of language was not wanting to impress Congress that there was here a city, the like of which, in coming time, no legislator's eye would ever see, nor country claim. I have observed that a recent print accredited Mayor F. C. Sherman and myself with appointing the first Thanksgiving-Day ever observed in this State! It need only be said that among the early settlers of the State the custom had not been observed, as that had not been a custom of the Southern States, whence the great majority of settlers had emigrated. But in our common council were men of New England origin, Julius Wadsworth from Connecticut, among the others. We framed a resolution which was passed, directing

the mayor and clerk to issue the proclamation. The proclamation was of stupendous length, and great sound. It was signed by his Honor, Mayor Sherman, and his city clerk. And it was religiously observed by all the churches then in Chicago; the turkey was eaten, and the people were happy!

I trust I may be pardoned if I take my hearers with myself to see the Chicago of 1837, for the first time.

I left New-York City while a student at law, on the 11th day of August, and I reached Chicago on the 11th day of September. One month was consumed on the way, without making any unnecessary delay at any point except Detroit, where I took passage on the brig *John H. Kinzie* which landed me, after a two weeks' tempestuous passage, at one of the two only docks then upon the Chicago River!

These docks were on the north side, immediately adjoining the site of the present Rush-Street bridge. Here was then the great tavern or hotel, known as the Lake House, just erected. There was also to be seen the tower of St. James Episcopal Church—then the only brick meeting-house in Chicago. Just previous to the great fire, you might have seen the same tower covered over with commercial signs—advertising flour and provisions—not that heavenly food, for whose dispensation it was originally built. At that day, all the fashionable stores, the leading society people, and the handsomest dwelling-houses, were on the north side. It indeed strongly insisted upon being the main side and future City.

But I did not stay long on that side. Chicago River was crossed at Dearborn Street by the only bridge, with a draw raised by chains and crank; and to that bridge I hurried upon that September afternoon. My objective point was the Chicago court-house, or clerk's office, where I was to find the earliest friend and companion of my boyhood, the late George Manierre, who was then deputy of the circuit-court clerk, Col. Hamilton. We had parted in sorrow from each other two years before, at a dock in New York. As I sped on my way, on foot, with satchel in hand, along the high, rank grass of streets newly opened, I was fain to observe the length of the streets laid out without either

sidewalk or house. I stood upon that antique bridge. I looked toward the junction of the streams, up to what is now West-Water Street, and for the first time, caught glimpses of that mighty land—"*the far-off West*" of my imagination—it had gilded my dreams of the future and bounded every possibility of my life. I stood upon that antique bridge and recalled Byron's Bridge of Sighs, "but instead of a prison and a palace," here was a bridge with a past and future on each hand.

All along these level banks and beyond these river shores shone the brightest of skies, bending down upon those untenanted fields—wild in their vastness and glory, the same as they had appeared to human eyes for thousands of years! Here was the dreamland of the poet Bryant! and here those prairies, he had enshrined forever in immortal song. Here was the Garden City:—

"These are the gardens of the desert—
These the unshorn fields,
Where lingers yet the beauty of the earth
'Ere man had sinned.
I beheld them for the first, and my heart swelled
While the dilated sight took in the encircling vastness!
Lo! they stretch in airy undulations far away,
As if Ocean, in her gentlest swell, stood still
With all her rounded billows fixed and motionless forever!"

I reached that corner of Randolph and Clark Streets—the open field, or court-house square! which appeared like an outlying forty-acre tract of this day in some addition or suburb. And here stood boldly out the columned Greek portico of the court-house, or clerk's office, clear pine in white lead in classical outline. It was as near an image of the Parthenon at Athens, as a boy's sketch in charcoal would resemble an original. The main front faced upon Clark Street. Its broad stairways and double doors led up into a long room, fifty feet wide. Here was my old friend, George Manierre, deputy clerk, alone among the papers and records of the clerk's office, of which he seemed sole custodian. We had a joyous meeting.

The year 1837 will be ever memorable over the country as a year of financial disaster; a year of discredited notes; land

funerals, and a general break down of all values. In 1835, two years before, the population of the town was reckoned at 3500. In five years after, the United-States census of 1840 counted the population at 4479—not much progress in that. In 1836, the second sale of canal-lots had taken place, and everyone was wild with his own hopes. The whole State had commenced work on a general system of internal improvements. The place was full of strangers; and in 1836 had occurred one of the most signal events in the history of Illinois. The first ground was broken at Bridgeport for the construction of the Illinois and Michigan Canal. It was the National Anniversary. Barges were full of people, attended with bands of music, and firing of cannon; and a Judge of the Supreme Court, Theophilus W. Smith, delivered the address of that occasion. It seemed to the people as if an era of luxury and universal wealth had been just ushered in. Chicago was no longer a frontier village or military post, it was a city, and soon to become the seat of empire or of imperial things. "*Imperium in Imperio.*"

But alas! the year 1837 brought on the crisis, from which it took years to recover, while it disciplined the people in thrift, industry, and wisdom.

Let us now for a moment look upon the early bar, that we may preserve a memory of the work they accomplished, and the character they bore.

If we should walk into the little pretentious piece of architecture which was called the court-house, upon any day in the fall or spring, when the circuit court was in session, we should probably find every member of the bar in attendance. There was no district telegraphs nor telephone, and during term time the lawyers kept no office hours. Besides the entire number was only 27 persons, and that number may be counted now in any one of our various chambers on any motion day, while there is no lack of service at the office all the time. I think it may be interesting to call their names in the presence of this association, that the present bar may have an introduction. Eleven of the whole number whom we are still glad to meet, survive the number then living. Of this pioneer class or band I call the following:

Hon. John D. Caton, Judge Grant Goodrich, Hon. Ebenezer Peck, Judge James Grant, of Davenport, Ia., Hon. J. Young Scammon, Judge Mark Skinner, Hon. Isaac N. Arnold, Hon. Alonzo Huntington, Hon. Hugh T. Dickey, now living in New York, and Hon. Joseph N. Balestier, now living in Brattleboro, Vt., who, in 1840, delivered a lecture on Chicago, before the Chicago Lyceum, recently republished by Fergus Printing Co.

The Hon. John Wentworth, for nearly twenty years publisher, proprietor, and editor of the *Chicago Democrat*, should not be forgotten. He was a student at the law-school at Harvard, in 1841, and afterward became enrolled as an attorney of the supreme court of this State in the same year.

Mr. Wentworth, it was said, learnt at Harvard how to indite libels without making them actionable. Judge Giles Spring, his personal and political enemy, while presiding as a judge of the Common-Pleas Court, came into court one morning, and finding a case of libel docketed against Wentworth, cried out, to Mr. Jas. H. Collins—who was Wentworth's lawyer—"Here, Mr. Collins, you must remove this case out of my court!" "Why, so? We know, your Honor, that the plaintiff brought his case here because he *relied* upon your friendship to carry him through; but we rely upon our legal defence!" "Well," said the Judge, "I can not try the case, because, while the plaintiff would have all my sympathy, and I would beat you if I could, the defence would have all my rulings in his favor, to make me feel impartial."

But I can not call the Hon. J. Young Scammon without stopping to note him as my early tutor, as the most generous o patrons, as well as he has ever been, the most liberal of citizens. While in his profession he was one of the most learned and industrious of lawyers—the four first volumes of Illinois Reports, which at the time they were issued, did great credit to his enterprise, as well as learning, and was then the best record of his labors. But in all fields of business and knowledge, his acquisition of wealth was employed in promoting every beneficent and benevolent enterprise, united with the highest culture and progress. And this very wealth was at length lost in his zeal to rebuild, from its ashes, the city he had contributed so much to raise, before and after it was destroyed by the great fire of 1871.

If we had called the roll of that early bar last year, we could also have summoned Hon. Edward G. Ryan, Chief-Justice of Wisconsin, Judge Buckner S. Morris, and Hon. Mahlon D. Ogden, an early Justice of the Probate Court, and my immediate predecessor in that office, who, with those before mentioned, constituted fourteen survivors of the original twenty-six members.

Let me again refer to the illustrious dead. Their reputations are still fresh and green in the memory of their still living associates, though surrounded by a second generation who never saw them. Before speaking of their merits as individuals, let me call their names over: Justin Butterfield, Jas. H. Collins, Geo. A. O. Beaumont, E. G. Ryan, Judge Henry Brown, S. Lisle Smith, Norman B. Judd, Mahlon D. Ogden, Daniel McIlroy, Patrick Ballingall, Giles Spring, Francis Peyton, Jas. M. Strode, and William Stuart. The last named was, in 1841, postmaster of Chicago, and editor of the *American*, a Whig paper, the forerunner of the *Chicago Express*, which was merged into the present *Chicago Journal*. He removed to Binghampton, N.Y., where he originated, and edited a newspaper, and was postmaster there.

Of this number, it is worthy of note, that one, Hon. E. G. Ryan, filled the office of chief-justice of the neighboring State of Wisconsin; Justin Butterfield was Commissioner of the General Land Office; N. B. Judd, Minister of the United States at the Court of Berlin; and Giles Spring, Judge of the Court of Common Pleas, and Mahlon D. Ogden, Justice of the Probate Court.

Of the living, James Grant filled the position of chief-justice of Iowa, and John D. Caton the like office in Illinois; Ebenezer Peck was Judge of the United States Court of Claims; I. N. Arnold, Member of Congress from the Chicago District; and Hugh T. Dickey, Grant Goodrich, and Mark Skinner, judges of the Courts of Cook County, and James Grant and Alonzo Huntington, State's Attorneys for this judicial district.

But in the respective spheres of life which they filled, good may be done as well as evil. The vital question in all cases is not, what offices they have filled, but what was the character of their performance, and the reputation which attended their lives?

In reply to this, it may be stated,—that in such a number

of (twenty-six) persons, constituting the whole body of the profession, in so distant and outlying a forum, and comparatively rude period of society, in a pioneer mixture of all casts of culture and nationality, it is a memorable fact, that the annalist or historian can impute to no individual of the number, a single professional scandal; and I never heard of a single complaint against any one of them which imputed a dereliction of duty, or an instance cited of gross professional misconduct. All were distinguished for professional and moral excellence, for fidelity in in discharge of private and public duties. While in office they manifested great fitness for judicial and political magistracy.

Chicago was, in many respects—as I have shown the State to be—indebted to this professional corps for several of her educational foundations.

The school-land had nearly all been sold. If, as Gov. Ford said, the school-section had been preserved out of the hands of speculators from sale, $100,000,000 would probably have been realized, in this City, instead of $40,000. The lawyers took the first steps to save what was unsold, and then established the common-schools. The names of Scammon, Wm. H. Brown, and Manierre, remain inseparably associated with the schools and the care of the school-funds.

In 1835, when repudiation of the public debt was imminent, the lawyers protested, and saved the credit of the State. The canal project had been almost abandoned in 1839 and 1840. But in 1845, the late Justin Butterfield laid down the programme with capitalists, and drew the Act of that year, which the canal bondholders in Europe and this country were induced to advance the additional sum of $1,600,000 necessary to complete that great work. Under it the State conveyed all the canal-lands in pledge for the ultimate payment of the whole canal-debt to trustees. The money was raised, and the State began again to advance in population and prosperity. After work on the canal had been renewed, Chicago started out upon the race for empire she has been since making, and Illinois, to-day, ranks among her sisters the third or fourth in power and prosperity of the American Union.

I have spoken of the court-house. Let us look at some things about it. If there, some morning, at the opening of court, you would hear an old gentleman of short figure, light, cheery face, about sixty-five years old, but active and consequential, open court as a crier. His name was Heartt. His wife made the best pop-corn in town, and he generally fed it round about noon, at every day's session. So he was called "Pop-Corn Heartt." When he opened court, he cried "Oh Yes! Oh Yes! This court now meets pursuant to adjournment. All jurors take back seats. Witnesses draw nigh to the court; and *lawyers mind their own business.*"

One of the scenes which took place in the fall of 1837, I have never seen referred to by any one. Hon. Thomas Ford (afterward governor) had just been appointed judge of the Municipal Court of this City, which had been created by the first charter. It was a court of superior or general jurisdiction within the City. It was to be held that winter for the first time. It was a time of great pecuniary distress, and all obligations created during the speculative times were just maturing and unpaid, and there was no money to pay them.

The dockets were crowded, in both the circuit and municipal courts, and something must be done. Some of the debtors resolved that no court should be held; a public meeting was called to prevent it. It was held at the New-York House—a frame building on the north side of Lake Street, near Wells. It was held at evening in a long, low dining-room, lighted only by tallow-candles. The chair was occupied by a State senator—the late Peter Pruyne. James Curtiss—nominally a lawyer, but more of a Democratic politician, who had, practically, abandoned his profession, was active. But the principal advocate of suspension of the courts was a judge of the Supreme Court of the State, Theophilus W. Smith. Upon the other side, were Butterfield, Collins, Ryan, Scammon, Spring, Goodrich, M. D. Ogden, Arnold, and others. And among them the Hon. Wm. B. Ogden, the mayor of the City, who was subsequently admitted to the bar of this State. We will count him in, for he did manly service at that meeting, in sustaining the law and its regular administration,

and in repudiating and denouncing any interference with the courts. He was a noble, generous man, whose hand was seen in all public works. The battle was bitterly fought. It was shown by the opponents of courts that it meant ruin if they should be held, and judgments rendered against the debtors,—that $20,000,000 were then in suit against citizens, which was equivalent to a sum of $500 against every man, woman, and child in Chicago. What was to be done? "No one was to be benefited," Curtiss said, "but the lawyers," and *he* had left that profession some time before.

Then Ryan—a man of large muscular frame, eyes large, wide open, as great lights in his luminous intellect—great as he ever was in debate, but then active—and in his wrath, like Mirabeau, "fierce as ten furies and terrible as hell,"—when he rose to the full height of his great argument,—pointing to Curtiss, asked that body of debtors if that was the kind of a lawyer they expected to save them. If so, it had long been a question whether *he* had left the profession of law, or the law had left him; but of one thing they could be sure—that if he succeeded in his present unlawful attempt, he (Ryan) would guarantee *them justice*, and the sooner the law discharged that obligation the better it would be for the community.

Butterfield, tall in stature, stern of countenance, denounced the Judge of the Supreme Court who could descend from that lofty seat of a sovereign people, majestic as the law, to take a seat with an assassin and murderer of the law like Judge Lynch. Others followed; but the good sense of the meeting laid the resolutions on the table, and the courts were held, as they have been ever since.

It was in a similar spirit the Hon. Lyman Trumbull, with the undaunted courage of his profession, faced a mob of his own Republican partizans in court-house square, during the late civil-war, and took such action as led President Lincoln to suspend a military order of General Burnside, to have the *Chicago Times* suppressed for some criticisms it contained on the conduct of the war.

FIRST IMPEACHMENT CASE.

The independence of the bar was memorably illustrated in the case of Judge Pearson—who held the courts of this circuit in the years 1839 and 1840. The case of The People *ex rel.* Bristol *v.* Pearson, in 2 Scam., 198, contains an affidavit containing a statement of facts which include a history of one of the greatest local and professional agitations, in which the bench and bar of that day were the immediate actors.

Judge John Pearson, who resided at Danville, outside of this judicial circuit, had been elected, or appointed, judge of this circuit by the Legislature. He was known to be incompetent for the position, and to be sadly wanting in the qualities which make a good judge. His appointment had, consequently, been unpopular with the Chicago bar from the beginning. It may as well be understood, that there was a strong feeling of prejudice in the southern part of the State among that population, a large majority of whom were originally emigrants from the Southern States, against the north part of the State, and that as Judge Gillespie stated, last winter, in his historical sketch before the Chicago Historical Society,* the people of this section were spoken of as "Yankees," in no tone of implied praise or affection. This feeling was strongly betrayed in legislative debate during the pendency of canal measures in the General Assembly. In illustration, it may be said, that more than one speaker had predicted, that if that "d——d *ditch*" was ever opened, it would let down upon the people of that section, "every Yankee peddler" of this region "and corrupt and debase the primitive virtues and habits of the southern people"! The Democratic party was in power in the State, and John Pearson was a Democrat. It is true he had never manifested any fitness for such an office. But he was of the straitest of the sect and he had not been corrupted by office, as he had never held any official position. It might as well be said, that he was a poor lawyer and an industrious office-seeker. He lived at Danville, on the Wabash, and was therefore backed by a politically strong section of the State. This judicial circuit was among the Yankees in what was then regarded as a far-off region; and here was an opportunity in

* No. 13, Fergus' Historical Publications.

which friends could provide him a place, in the same manner that peers in England sometimes dispose of younger children, by a kind of exile in some new colony.

It may now be understood that Yankees in Chicago had no desire for cast-off or damaged goods. The Butterfields, Ryans, Collins, Scammons, Arnolds, Ogdens, Goodriches, Skinners, Judds, and Springs, of Chicago, knew very well what a judge should know, if he came as a judge in this Israel, and finding that in this respect he knew little of the "law of the land," a determination was formed that he should be taught it, or driven from his position.

He had not held more than three or four terms here, when on the 11th day of November, 1839, at the close of that term, the opposition of the bar culminated in a scene of first restrained passion, then open contempt, and, finally, the wildest tumult, as well as revolt against longer forbearance.

Scammon had tried the case of Phillips *v.* Bristol, as counsel for Bristol, the defendant, and had taken exceptions to Judge Pearson's ruling in the case, and tendered a fair bill of exceptions, which the Judge refused to sign. Scammon had applied to the Supreme Court and obtained a *mandamus* against Pearson, commanding him to sign the bill of exceptions. Pearson knowing this fact, and fearing Scammon would serve the writ of *mandamus* upon him, refused to recognize Scammon when he arose in court to make motions, Pearson claiming to be engaged in some other matter for the time. Pearson had previously fined Scammon for alleged contempt of court, and it was strongly suspected that the latter was quite willing that Butterfield should share with him the honors of being fined or punished by the arbitrary judgment of Pearson for alleged contempt of court.

Be this as it may, Scammon quietly and privately put into Butterfield's hands the bill of exceptions and writ of *mandamus*, which he wished served on Pearson.

Butterfield was only too glad of the opportunity. He was a large, bold man, of intellectual countenance and commanding presence.

It was in the afternoon of the day. The term of the court was

drawing to an end. The chiefs of the bar were present in court, and Butterfield impatient to set the ball in motion. He rose from his seat with great deliberation and dignity, holding two papers in his hand, and then, as the affidavit of the clerk declares:

"Mr. Butterfield with marked politeness of manner handed one paper to the judge, saying, that it was a bill of exceptions in the case of Phillips *v.* Bristol, tried at a former term."

The judge said, "I did not sign that bill of exceptions." To which Mr. Butterfield graciously replied, "I am aware of that, sir, but here," presenting the judge the other paper, "is a writ of *mandamus* from the Supreme Court of this State, commanding you to sign it!" "What's that, sir?" said the Judge. Again, Butterfield graciously repeating his language, "Here is a writ of *mandamus*, commanding you to sign it." The Judge held the paper toward Mr. Butterfield, saying, "Take it away, sir." Mr. Butterfield replied, "It is directed to you, sir, and I will leave it with you. I have discharged my duty in serving it, and I will leave it with you."

It was at this point that the Court turned to me—as clerk—and said, "Mr. Clerk, enter a fine of twenty dollars against Mr. Butterfield," and then threw the papers (bill of exceptions and writ of *mandamus*) on the floor in front of the desk. He continued, looking at Butterfield, "What do you mean, sir?" It was now that Butterfield, raising his voice (hitherto restrained), fired the first gun of what was to be a campaign. "I mean, sir, to proceed against you by attachment, if you do not obey that writ." The Judge, replying, cried out, "Sit down, sir! Sit down, sir!" and to me, saying, "Proceed with the record."

The record was read, the fine of twenty dollars entered up against Butterfield, and the court adjourned. The judge was descending the bench and proceeding to pass through the bar, when all the lawyers jumped to their feet, while Butterfield promptly marched up to Pearson, saying, "Sir, You now have disgraced that bench long enough. Sit down, sir, and let me beg you to immediately attend a meeting of this bar, to be held instanter, in which we are about to try your case, and rid our-

selves and the people, once for all, of your incompetency and ignorance!"

The judge left, but the bar prepared an impeachment, and that winter a long trial followed the presentation of articles before the House of Representatives, at Springfield, where all the eloquence of the bar was invoked, with that of others, to impeach Judge Pearson; but the House, which was largely composed of the political friends of Judge Pearson, refused to give the impeachers a hearing.

He, however, never recovered from the effects of this attack and prosecution. The party paraded him as a martyr, and it was said that he had achieved a triumph over Butterfield, Scammon, Collins, Spring, Skinner, and Goodrich, as they were old Federals and Whigs, and wanted only to be rid of an *in*corruptible judge —a Democrat—who was not to be terrified by such enemies of the Constitution, the Democracy, and the Union.

But Ryan, a life-long Democrat established a newspaper, called *The Tribune*, to drive Pearson from the bench. Its leading articles were such as Junius might have written, animated by a spirit of determination to drag from the bench a Jeffreys or a Scroggs!

Pearson was finally disposed of by the party taking him up as a State senator, and electing him from the counties of Cook and Will, in 1840; and from thence hitherto the bench has heeded the lesson, for there has arisen no other occasion for the violent and irrepressible conflict of a bar and bench so divided, by ignorance and incompetency on one side, and great independence and intelligence upon the other!

It would be exceedingly pleasant to recall by sketches many of the men of that early day. With few exceptions, all were men of rare culture; but there were two or three exceptions of men whose school education was very deficient. Such were Giles Spring and Buckner S. Morris. Spring was a very bright man, with remarkable legal talent, great energy, but little culture. I performed one of the saddest duties of my life last year in preparing a sketch of Judge Morris' life, and reading it before the United States Circuit Court in this City, at whose bar I also presented, according to my appointment, the resolutions passed by

his brethren of the bar. Both these gentlemen rose to high position, from the native force of their characters and the possession of vigorous intellects. And what seemed singular in their case is, that, in the absence of regular culture in the art of advocacy or oratory, they were among the most successful speakers of that day! In many respects they attained in jury trials a preëminence in advocacy over their more highly-favored brethren who had been sedulously prepared in universities and schools, both in New York and New England. Both of them were elected to the bench, and Morris was also the second mayor of this City, succeeding Wm. B. Ogden in 1838.

It would be amusing also if we could recall many of the *bon mots* and eccentric humors of the profession. Soon after I arrived in Chicago, I was standing upon Lake Street, opposite the old Tremont House, a three-story frame building or tavern, standing diagonally across from where the present house of that name now is. It was then on the northwest corner of Lake and Dearborn Streets, instead of the southeast corner, where it now stands. The late Gov. Ford, then a judge, in 1838, was holding a term of the court which the mob would have suppressed but for the lawyers in 1837. He had been to dinner, and he stood picking his teeth on the front stoop. He smiled significantly, as a coarsely-clad country stranger inquired of him and others standing by, if they could tell him of a place in this State called "Stillman's Run or Defeat?"

Ford said: "There (pointing) is a gentleman crossing the street. Colonel Strode is just the man that knows all about that defeat! Quick, hail him!" He did so. Strode turned, and saw Ford looking at and watching him. The Colonel, suspecting the trick, abruptly answered the countryman by saying, that if there was such a place as "Stillman's Defeat," he could not prove it by him.

The point of the inquiry was an anecdote told of the Black-Hawk war, preserved by Ford, in his history of this State. At "Stillman's Run," there was a panic and surprise of a small detachment of troops, sent out against the Indians, in which Col. James M. Strode had a command. The whole detachment took

to their horses, full speed, and as each arrived at headquarters in Dixon, each runaway supposed he was the only one left to give an account of what was called an engagement with Black Hawk's whole force of 20,000 men! Col. Strode, Ford declares, stated that all his companions fell bravely "fighting, hand to hand, with the savage enemy, and he alone was left upon the field of battle to tell the story." And then he continues: "The gallant Colonel said that at the time he discovered a body of horsemen to his left in tolerable order, I immediately deployed to the left, when leaning down and placing my body in a recumbent posture upon the mane of my horse, so as to bring the heads of the horsemen between the eye and the horizon, I discovered by the light of the moon, that the whole body were 'gentlemen without hats,' and then I knew (by all the Gods!) they were no friends of mine. I therefore made a retrograde movement, and recovered my former position, where I remained meditating what further I could do in the service of my country, when a random ball came whistling by my ear, and plainly whispered: 'Stranger! You have no further business here.' Upon which I followed the example of my companions in arms, and broke for tall timber; and the way I ran, and the horse ran, was never equalled in Spain or at Waterloo."

I knew the gallant Colonel well. He was tall and straight of person, and prided himself upon a Kentucky origin. He wore a ruffled shirt, as in the olden times. He delighted in a pompous and grandiloquent style of narrative and speech. He was a genial companion, and he talked magnificently and well. His style might be illustrated by a single anecdote, where, being asked by some lady if he would take sugar in his tea, the reply was: "Madame! The flavosity of sugar, don't you see, millifies the *flavosity* of tea, and renders it vastly obnoxious. I never did like sugar, madame."

Colonel Strode was the kindest of citizens. He was full of information in regard to the West. He was of commanding person, and besides, he had talents of a high order. He held the office of register of the U.S. land-office, at Chicago, in 1837–40, and had been at one time a member of the General Assembly of

Kentucky, I think, as well as a Senator from the entire northern part of this State.

The anecdote that Governor Ford tells could be supplemented by many others, if time permitted, and especially by a stage-coach scene between Strode and the late Justin Butterfield. Colonel Strode himself amused us, sometimes, by telling us that he was "on the way from Fort Clarke, now Peoria, to Galena," at the time of Black Hawk's appearance with his savage troops on Rock River. The Colonel said, "I was on horseback, having my linen in one side of my saddle-bags, and Chitty's Pleadings, and Blackstone's Commentaries in the other. As I approached Dixon's Ferry, where we usually crossed the river, I espied the advancing host. When I saw they were gentlemen without hats, I knew they were no friends of mine, and I whirled, and turned my horse's head to the rear, and put my stirrups into his flanks. He stumbled and fell, but I did not wait for him to rise, or to secure my saddle-bags. I was in great haste, and at once escaped to the thicket. But what do you suppose happened the next day? Upon my word, old Black Hawk was seen strutting up and down the banks of Rock River with one of my ruffled shirts drawn over his deer-skin, with Chitty's Pleadings under one arm, and Blackstone's Commentaries under the other."

He said, on one occasion, that when he was running for office in Southern Illinois, they had charged him with "almost every crime in the code, from robbing a hen-roost up to high treason—and the worst of it was, the fellows came d——d near proving it too!"

But I must draw to a close. I could follow this train of remark for hours. It would afford me pleasure, did time permit, to speak of the great orator and declaimer—the brilliant, gifted, and noble S. Lisle Smith—and the more humble, but in many respects, no less useful member of community—the sharp, caustic intellect of Patrick Ballingall—who rose to take a high rank in public life from his place in the ranks of the profession, while he came self-educated from the very humblest walks of life. It has been my lot, after enjoying their friendship, personally, to stand at the graves of many who have passed away! I studied my profession among them, and never wanted for encouragement in my

needs, nor in the instruction which they taught did I miss the very highest motives of honorable ambition in the struggle upon which alone and unfriended I was entering. Whatever ambition they entertained, and whatever worldly objects they aspired to master, they seemed to have remembered what Judge Henry Brown was accustomed to write in his lectures: "They were just and feared not, and all the ends they aimed at was their country's, their God's, and truth's." While the weather-scarred tombs and head-stones of many have been removed from the old cemetery —to plant Lincoln Park on the spot where their virtues were commemorated,—their memories live in the hearts of all who knew them. I sincerely trust they may ever be cherished by the profession which they honored, and the City which their lives adorned.

I think up to this point I have stuck to the text of my lecture. I have endeavored to follow the lawyer as a pioneer. I have shown that in this State the members of the profession have not only made the laws by which it is governed, and to a great extent conducted its political destiny, inaugurating all the measures (a few of which have been referred to), that have secured its progress, prosperity, and civilization!

Tocqueville, the most sagacious and profound thinker who has ever written upon Democracy in America, has given two chapters of his work to the influence exercised by the legal profession upon the institutions of our country.

He says: "The lawyers in this country form the highest political class and the most cultured portion of our society." He questions whether democratic institutions could long be maintained, or a republic could hope to exist at the present time, if the influence of lawyers in public business did not increase in proportion to the power of the people.

But he shows, also, how the profession might become, "as it did become in England under bad reigns,—the most servile and useful instruments of a sovereign nobility to oppress and tyrannize over the people."

There may be danger ahead of the profession, but its past is inspiring. The lawyer, as a pioneer in Chicago, has been in

every stage of her progress, judicious and enlightened, conserving the forces that have secured the permanent advancement of the City to the high place she occupies at the head of municipal civilization. Had I time I could show that between the years 1837–40 and '42, the first common-schools of the people were provided for in the liberal grants of school-land by Congress, and were organized by members of the profession, and that the school-fund, derived from the lands sold, was husbanded and made available by them. That the University of Chicago was planted by Judge Douglas in 1856. That Dearborn Observatory was founded, and an astronomical society organized at the university, by Scammon and others in 1862. And while many generous and enlightened citizens subscribed for the purchase of the large telescope, the largest then ever made, and the greatest now mounted in any observatory in the world, except that in Washington, constructed, subsequently, by the same great maker, Alvan Clarke, Mr. Scammon, then grown to be opulent as a banker, furnished the tower, built in 1863–4, at his own exclusive cost of $40,000. Up to the time of the Great Fire, he supported it by an annual endowment to that accomplished director, Truman H. Safford. I could bring before you the evidence showing the liberality of Mr. Scammon, to whom I could add the names of others like E. B. McCagg, E. H. Sheldon, the late S. W. Fuller, I. N. Arnold, M. D. Ogden, Mark Skinner, and others, who led the way in founding what are now the growing and prosperous institutions of our civilized life, such as the Academy of Sciences, and the Historical Society, while it is not to be overlooked that the late Henry D. Gilpin, formerly Attorney-General of the United States, endowed this society with a sum equivalent to about $45,000 by a legacy in his last will. It is not generally known that the largest medical school of Homœopathy in this country, with college and hospital attached, is the special foundation of this same benefactor, Mr. Scammon.

It will be understood that Mr. Scammon, himself, would not claim, nor is he alone entitled to exclusive credit for the numerous charities with which his name is prominently connected. But to his culture and generosity, as a lawyer, was added the

possession at one time of large means. He is to be credited with a munificent spirit in the use of this wealth. I know of no citizen, living or dead, in this city, who has equalled him in such benefactions.

Nor, it will be recollected, has legal education been neglected. Of that, however, I have not time to speak. But of the Law Institute, which, in some way, is claimed as of very recent origin, I will say a word. I know that it was inaugurated before the Mexican war, in 1846, by the old lawyers, at which time, instead of contributing money, the profession contributed books from their own libraries. The late Judge Manierre was one of the most active in the infancy of the enterprise, and afterward in its reorganization. His portrait in the rooms of the Institute is most appropriate, as well as an honorable tribute to one of the original founders of that institution.

While mentioning the bed-rocks upon which rest the structure and maintenance of our present civilization, in the midst of schools of science and history, educational and literary, let us not leave out the foundation of a public library the Great Fire brought us; although we can not but regret that it has been deprived of its location in the Monumental Building, saved from the flames, which was provided by both the nation and the City, as a most appropriate and enduring monument, both of that great disaster, and of that sympathetic benevolence, which, bounded by neither land nor sea, made the first contribution to this great Public Educator. It is to be lamented that the mercantile spirit of a single municipal board, should have so controlled a legal technicality as to override the pledges of public faith, and render the Providential Monument unavailing of its most appropriate and manifest destiny.

I do not think the professional spirit is in accord with the conclusion, that mercantile narrowness of view in the interests of education, marked by an unjust parsimony in public affairs, should be perpetuated, at the expense of the national government, by a monument like that of the old postoffice building.

All commercial centres are alike, in this, that the greater interests centre in the material wants of the people. We are sur-

rounded by the clamor of trade, grain houses, boards, banks, railroads, boulevards, hogs, corn, and whisky. Few stop ever to consider what would become of their idols if the light and heat of the spiritual universe, the supports of law, philosophy, literature and science, and philanthropy, were withdrawn, and they should be left to the "mammon of unrighteousness," in his own *darkness.*

"Nothing," says a certain senator, "is more despotic, selfish, cruel, and corrupting, *than a million of dollars*, except *a million and a half.*"

I think the time has come when the Fairbanks, the Fields, and Leiters, who justly lead the "Merchant Princes" of our metropolis, should advance to the front rank of our own profession, in appreciating these needs of our civilization. With them, to wish, is to perform!

I have followed the lawyer as a pioneer in this State to merely introduce this association to the early bar of Chicago, in the years 1837–40.

In a biographical sketch of the life of the late George Manierre, delivered before the Historical Society of Chicago, I said his death, in 1863, had marked an epoch in the history of the Chicago bar. Nearly all of the men, among whom he had commenced his career as a student-at-law, and a deputy clerk of the circuit court in this county, had then passed away, or retired from the active duties of professional life. Among all those of the number enrolled, as I have named them, the administration of justice had never suffered a scandal, nor the bar a reproach. The ermine and robe were unspotted. The standards of professional conduct were such as would bear comparison with those of the oldest communities.

Mr. Forsythe, in his History of Lawyers, contrasts the purity and nicer sense of honor of the English bar, with that of the rest of Europe: He says, that for centuries it has been subjected to no statutes or rules, other than those which the bar framed for itself, and that its "immemorial traditions have preserved it as a body, from all that is mean, base, and disreputable."

It is much to say—very much of a community of lawyers in so

early a stage of civilization as ours—that against all temptations to servility and dishonor, no single exception occurred, no branch on the tree had fallen off from rottenness or decay.

Mr. Conkling, in his eloquent address before this Association, the other evening, declared, "that it is yet to be determined, either by legislative or judicial authority, how far its present illimitable *imperium* shall be tolerated in a republican '*imperio*,' and how long railroad monarchs with hundreds of millions at their command, shall defy the government made by the people for the people."

I find in the *Chicago Tribune*, of the 14th January, 1881, the very day after *this address* was delivered, an article complaining of the power of these corporations over the government—and it continues thus:

"That railroad managers are filling both houses of congress, especially the senate, with *retained and pensioned* ATTORNEYS;—they bid defiance to the country—they are in possession and control of all the highways of trade. They are practising extortions in every direction. All they need is to defeat legislation. The so-called representatives of the people at Washington are paralyzed! Men who fought, valiantly fought over the battles of the revolution and the last war, stand mute in their places, when it is proposed to assert the powers of the government to protect the interests of the people!"

This is fearless, wholesome, and patriotic teaching in a leading journal of the times we live in. It has long been a clear and manifest fact, to my own mind, that the railroad corporations have come to assume the same dangerous relations toward the legal profession in this country, that formerly existed in England between the aristocracy and the bar. The railroad magnates claim, by virtue of the unscrupulous use of money, to command the most abject servility from their legal service. They assume that the profession can be hired with money, and commanded to engage in their basest service, for whatever purpose, either to establish or subvert as well public as private rights! The people of this City, in a recent case, have been alarmed by a decision of the Supreme Court, which has gone further in overturning long-settled axioms

of municipal law, and by the flagrant subversion of the clearest common-law rights, as respects public and private property, than any declarations heretofore made by that judicial tribunal. There are rumors of fearful import—that in our courts, corporations are favored litigants. And it has been noticeable that the newspaper press of this City has not always been so nobly outspoken and courageous as to the encroachments of these monopolies. But the bar and the press must go much further, if they would succeed against the dangerous exercise of the powers which these gigantic money combinations are wielding to coerce courts, and subordinate society! Inside the bars of courts, and beside the very altars of justice, their notorious arts are employed, and their basest instruments at work, with diabolical industry, to prostitute justice and corrupt jurors, and obtain unjust verdicts.

In 1869, an address to a class of law students, which appeared in the public prints of that day, called attention to the conspiracy organized by certain corporations, and their paid agents, who controlled the legislature of that year (1869), to obtain a law, which, if it had not been since repealed, would have taken a property from this city, in submerged lands, larger in extent than three school sections, and of more money value than the entire property of the Illinois Central Railroad!

In this great land-steal, the greatest ever attempted, even by these corporate robbers, it was charged to have been the work of lawyers, in the legislature as well as out of it!

To the same extent as any honorable body of men may be charged with the crimes or scandals of its individual members, it was perhaps true! There was a man as well known in Chicago and Detroit, as in Washington, Springfield, and Boston, who inspired the scheme! He had worked his way into the service of the capitalists, who organized the unscrupulous combinations which the master-mind controlled. He was not so much a *lawyer* as a *corruptionist*. He made himself a necessity which his railroad masters could not dispense with. He never lived in this State! The law of 1869 made a grant of land, to the Illinois Central Railroad Company, extending a mile out beyond its break-water, in front of Michigan Avenue, and running from the south pier of

the Chicago Harbor (extended), to the roundhouse of the railroad at Park Row, with power to fill it out, and build thereon docks, piers, and storehouses, which, no doubt, was intended to put in possession of the corporation the future commerce of the lakes, and the greatest harbor of the Northwest!

The law, on account of the open scandals connected with its passage, was repealed within three years afterward. Good representative lawyers, like Senator Ward and Judge Knickerbocker, condemned and opposed its passage, at the time. While it was really a grant for 2000 acres of land, the press of the conspiracy, to this day, represent that it was simply a permission to the road to occupy three blocks of land between Monroe and Randolph Streets, while the City was to receive a munificent donation of $800,000 for that privilege!

One of the agents, employed to carry out the scheme, revealed the guilty secrets of the conspiracy, and, before his death, sued for his compensation in the courts; and the measure, it is known, was carried over a veto interposed by Governor Palmer, who could not be secured, either as governor or lawyer, to favor the grant.

Allow me, before closing, to say, that if the *Tribune* is warranted in making the statements of the article to which I have referred, there would seem to be instant need of reform!! The press and the profession should work together to this end! It would not be the first time, in the history of both, that their joint labors have saved the liberties of the people! It is very obvious, in view of the very imperfect sketch which I have made of our past progress as a State, that had such a combination of malign and powerful influences, as described by that journal, taken possession of our early legislation and infant settlements, that we would have had a government of corporations and attorneys, while these latter, as *servants* of the most unscrupulous monopolies are *worse than the monopolies* which control their action, would have been *masters*, instead of *servants*, of the people. The railroads would do for Illinois what landlordism is doing for Ireland, under different circumstances, perhaps.

It may well be imagined that had such been the condition of

the infant commonwealths of the Northwest, our civilization could never have developed the patriotism of two such statesmen in our political history as DOUGLAS and LINCOLN. The loftier impulses of their great manhood would have scorned the base nature of the services at this day required by the corporations in question. The progress of freedom and the emancipation of slavery would have been prevented, while history would have been deprived of the grandest chapters which those great names illustrate.

It will be observed that I have confined myself to the Democratic level of the profession. I have sought to bring before you the great rank and file which constitute the *morale* and strength of an army making success probable, and leadership a necessity. The truest work of a pioneer corps, charged with leadership in a wilderness, is improvised and created from the enterprise and daring of a people. Heroes and hero worship come afterward. The people of this State have been really led by the legal profession. In this leadership the people always trusted. The trust has rarely, if ever, been abused. On the contrary, I have reasonably demonstrated that the confidence reposed in lawyers, as governors, judges, or senators, as statesmen and patriots, whether in public or private life—all of it has been justified, and the hopes of the people realized in the most substantial civil and moral triumphs of the State.

I think that the "lawyer as a pioneer" has insured for the legal profession the gratitude and reverence which the posterity of all nations of people have, in after times, ever since awarded to the wise and patriotic founders of all the great States and Commonwealths of history.

PUBLISHERS' NOTE.

The pioneer history of lawyers in Illinois and Chicago can not be written unless the name of Thomas Hoyne be included. We have taken the liberty to add this note to his Address.

Thomas Hoyne is a character too well known to need eulogy from us. We shall, therefore, confine our remarks to little more than the bare mention of some of his public deeds. We will not forget to mention, that while he is indebted for his birth to parents from the Emerald Isle, he is in all respects a representative Republican American. But it is of Mr. Hoyne, as a pioneer only, that it seems appropriate for us to speak of him here.

Born in New York in 1817, a graduate of its Public Schools, before his majority he had learned, by experience, that earnest diligence was the only road to success. He had, even then, commenced the study of the legal profession, in which he has not only held high official positions, and inscribed his name among the leaders of the bar, but has illustrated, both intellectually and pecuniarily, that "nothing is so successful as success." As Justice of the Probate Court of Cook County, in 1847–49, United States District-Attorney from 1853–57, and United States Marshal in 1859, and Reform Mayor of the City of Chicago, in 1871, his official record needs no praise. He was elected Mayor by 33,000 majority, as a Reform Pioneer. In the establishing and endowing of a Law School in the North-West, in connection with the University of Chicago, and creating therein the chair of Constitutional and International Law; as a Trustee of that University; in the restoration of the Chicago Law Institute after the destruction of its Library in the Great Fire of 1871; in the purchase of the renowned Clark Equatorial for the Dearborn

Observatory, and the creation of the Chicago Astronomical Society, of which he was the first Secretary, and is a life Director; in the founding of the Chicago Public Library, of which he was the first President, his pioneer and efficient character and services have made their indelible record.

This is not the place to speak of him politically; but if we were permitted to do so, we should like to say, while always a Democrat, he was never an old fogy, and his love of freedom and equal rights was so strong that in the pioneer national battle for the removal of the badge of slavery from our national escutcheon, in 1848, the Free-Soil party found him among its most ardent and zealous leaders. He is a Chicago American—illustrating in his life and its success, as much of the ideal of successful, upward, onward American progress as any other man in our midst.